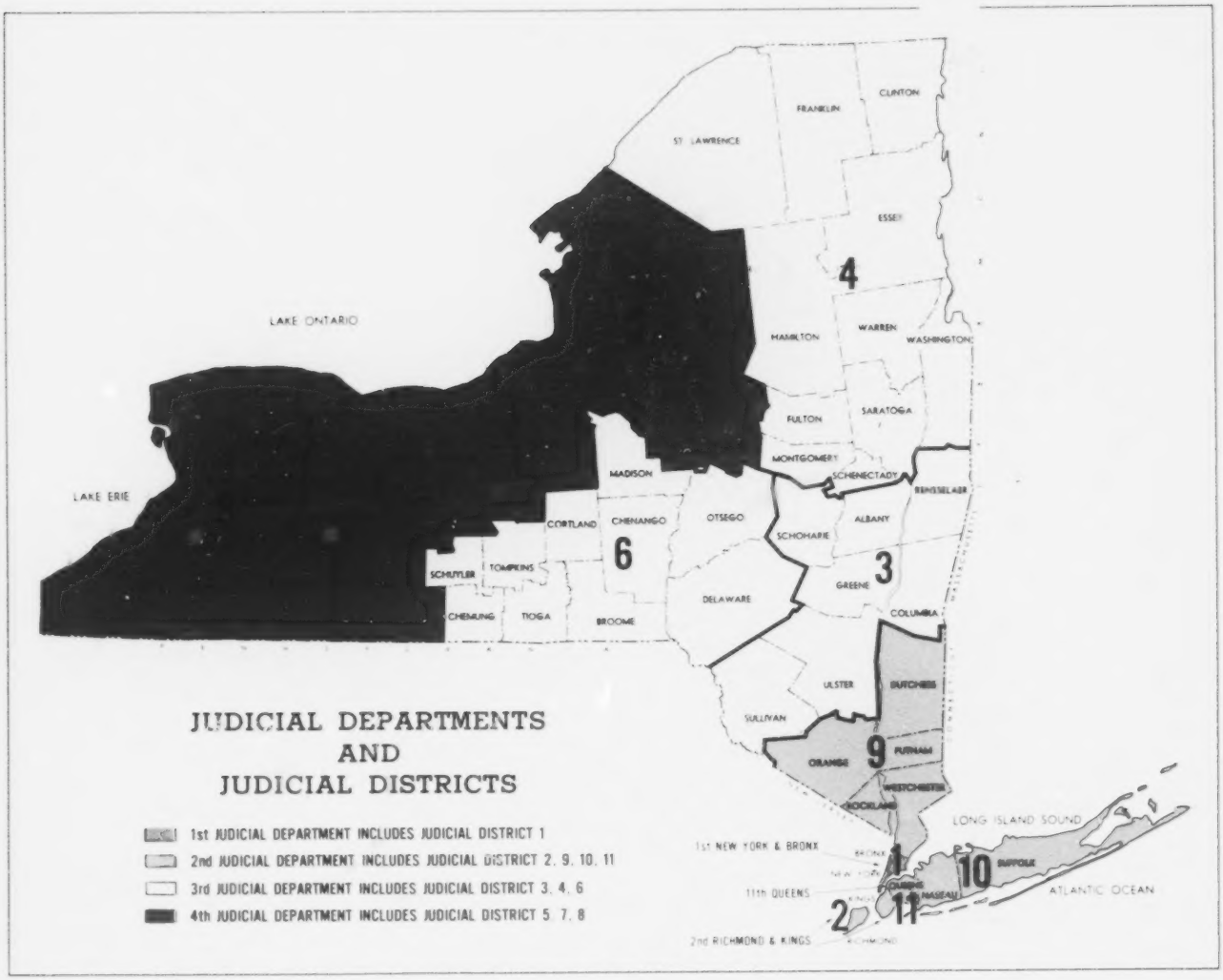
STATE OF NEW YORK
OFFICE OF
COURT ADMINISTRATION



S5730-1

STATE OF NEW YORK

Report of The Chief Administrator of the Courts

For the Calendar Year January 1, 1979 — December 31, 1979

Court of Appeals

Lawrence H. Cooke, *Chief Judge*

Matthew J. Jasen
Domenick L. Gabrielli
Hugh R. Jones
Sol Wachtler
Jacob D. Fuchsberg
Bernard S. Meyer

Chief Administrative Judge of the Courts

Herbert B. Evans

Administrative Board of the Courts

Lawrence H. Cooke, *Chairman*

Francis T. Murphy, Jr.
Milton Mollen
A. Franklin Mahoney
Michael F. Dillon

The Judicial Conference

Donald J. Sullivan
John C. Marbach
Frederick B. Bryant
J. Robert Lynch
William J. Regan
George W. Marthen
John H. Cooke
Daniel J. Donahoe
Archie A. Gorfinkel
David Levy
Angelo Mauceri
H. Buswell Roberts
Duncan S. MacAffer
John F. Keenan
I. Leo Glasser
James S. Carter

Patrick J. Berrigan

Letter of Transmittal

To:

THE HONORABLE HUGH L. CAREY, Governor of the State of New York,
and
The Legislature of the State of New York:

Pursuant to Section 212(j) of the Judiciary Law, I submit this annual report on the activities and state of the unified court system in 1979.

Herbert B. Evans
Chief Administrative Judge
of the Courts

March 15, 1980

COURT OF APPEALS

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James S. Carter

Patrick J. Berrigan

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Preface

This is the Second Annual Report of the Chief Administrator of the Courts. It is submitted pursuant to section 212(j) of the Judiciary Law and covers the period from January 1, 1979 through December 31, 1979.

This report is the second of a series that succeeded the annual reports of the Administrative Board of the Judicial Conference, the Judicial Conference, and the Office of Court Administration. The latter, in turn, had succeeded the annual reports of the Judicial Council.

The report consists of six chapters. Chapter 1 describes the objectives, the structure, the administration and the financing of the courts in New York State. Chapter 2 discusses the progress of the courts in complying with the standards and goals for the timely disposition of cases adopted by the Administrative Board on July 3, 1975 (see Chapter 2 of the 21st Annual Report of the Administrative Board). Chapter 3 presents statistics on court operations in calendar year 1979.

Chapter 4 discusses six special programs: (a) the Mental Health Information Service, (b) the central index for post-conviction applications, (c) retainer and closing statements, (d) compulsory arbitration pilot programs, (e) statements of appointment and of fees or commissions under section 35-a of the Judiciary Law, and (f) grievance committee activities.

Chapter 5 reports on education and training programs conducted, coordinated or assisted by the Office of Court Administration in 1979.

Chapter 6 summarizes (a) the legislation sponsored by the Office of Court Administration at the 1979 session of the Legislature and (b) rules revised or added during that year. It includes the *Report of the Judicial Conference and the Chief Administrator of the Courts to the 1980 Legislature in Relation to the Civil Practice Law and Rules*, the *Ninth Annual Report to the Judicial Conference and the Chief Administrator of the Courts by the Advisory Committee on the Criminal Law and Procedure*, and the *1979 Report of the Family Court Advisory and Rules Committee*.

The Appendix consists of the *Review of Existing Procedures to Determine Character and Fitness for Admission to the New York Bar, and Recommended Changes* by the Committee to Regularize Bar Admission Procedures.

All numbered statistical tables appear at the end of the chapter in which they are cited.

Acknowledgment

The Chief Administrator of the Courts gratefully acknowledges the assistance and cooperation extended to him, to the Administrative Board of the Courts, and to the Office of Court Administration during the past year by the Governor and his staff, members of the Legislature, members of the Judiciary, court personnel, bar associations, and individual lawyers and laymen.

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Chapter 1

The Courts

The *Judiciary* is one of the three branches of New York State Government. The powers and the structure of the New York State Judiciary are embodied in Article VI of the State Constitution. Article VI was approved by the voters in the 1961 election and became operative September 1, 1962, effecting the first court reorganization in New York since 1894. Article VI provides for a "unified court system for the state" and specifies the organization and the jurisdiction of the courts in the state. It also establishes the method of selection and removal of judges and justices and the responsibilities for administrative supervision of the courts.

The objectives of the Judiciary are to (1) provide a forum for the peaceful, fair and prompt resolution of (a) civil claims and family disputes, (b) criminal charges and charges of juvenile delinquency and (c) disputes between citizens and their government and challenges to governmental actions; (2) determine the legality of wills, adoptions, uncontested divorces and other undisputed matters submitted to the courts for review and approval; (3) provide legal protection for children, mentally ill persons and others entitled by law to the special protection of the court; (4) regulate the admission of lawyers to the Bar and their conduct and discipline, and (5) review administrative determinations in judicial disciplinary proceedings to admonish, censure, remove or retire judges and justices.

1.1 Court Structure

In New York State the courts of original jurisdiction, or trial courts, hear a case in the first instance, and the appellate courts hear appeals from the decisions of other tribunals.

The *appellate courts* are the Court of Appeals, the Appellate Divisions and the Appellate Terms of the Supreme Court, and the County Courts acting as appellate courts. The *trial courts* of superior jurisdiction are the Supreme Court, the Court of Claims, the Family Court, the Surrogates' Courts and, outside New York City, the County Courts. The trial courts of lesser jurisdiction are the Criminal Court and the Civil Court of the City of New York and, outside New York City, City Courts, District Courts and Town and Village Justice Courts.

The appellate structure of these courts is shown in Figures 1-a and 1-b.

The *Court of Appeals* is the highest court of the state. It consists of the Chief Judge and six Associate Judges. They are appointed by the Governor for 14-year terms, with the advice and consent of the Senate, from among persons found to be well-qualified by the Commission on Judicial Nomination. Five members of the Court constitute a quorum, and the concurrence of four members is required for a decision.

The jurisdiction of the Court is limited by Section 3 of Article VI of the Constitution to the review of questions of law, except in a criminal case in which the judgment is of death or a case in which the Appellate Division, in reversing or modifying a final or interlocutory judgment or order, finds new facts and a final judgment or order is entered pursuant to that finding. An appeal may be taken directly from the court of original jurisdiction to the Court of Appeals from a final judgment or order in an action or proceeding in which the only question is the constitutionality of a state or federal statute. In other matters, the Constitution provides that certain types of cases can be taken to the Court of Appeals as a matter of right, while in still other cases an appeal to the Court of Appeals may be taken only with the leave of a justice of the Appellate Division or a judge of the Court of Appeals or upon the certification of the Appellate Division or the Court of Appeals.

The Court also hears appeals from determinations of the State Commission on Judicial Conduct.

The Appellate Divisions of the Supreme Court are established in each of the state's four judicial departments (see the map in the front of this report). Their responsibilities include:

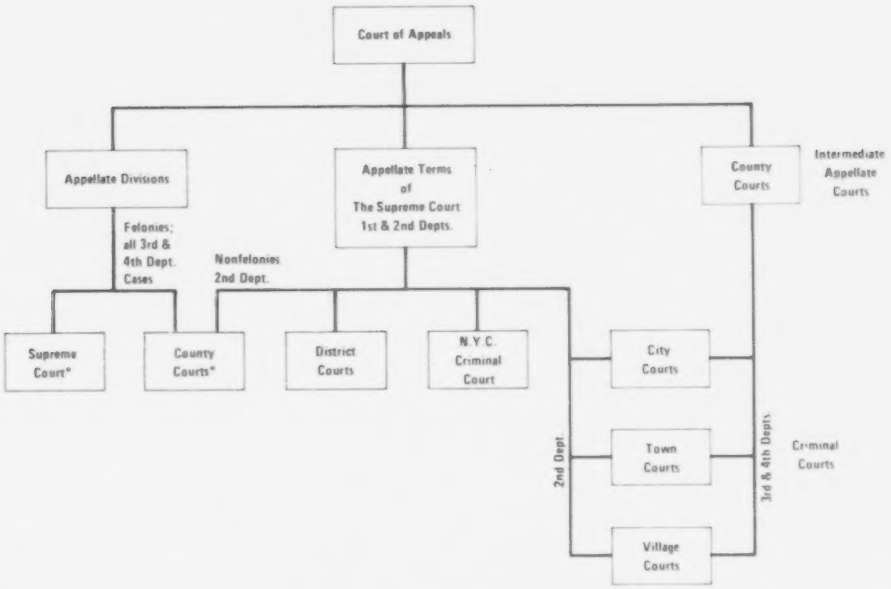
— Resolving appeals from judgments or orders of the courts of original jurisdiction in civil and criminal cases and reviewing civil appeals taken from the Appellate Terms.

— Conducting proceedings to admit, suspend, or disbar lawyers.

Each Appellate Division has jurisdiction over appeals from judgments and from final and some intermediate orders rendered in county-level courts and original jurisdiction over selected proceedings. Where established by the Appellate Division, *Appellate Terms* exercise jurisdiction over civil and criminal appeals from various local courts and certain criminal appeals from the County Courts in the Second Judicial Department.

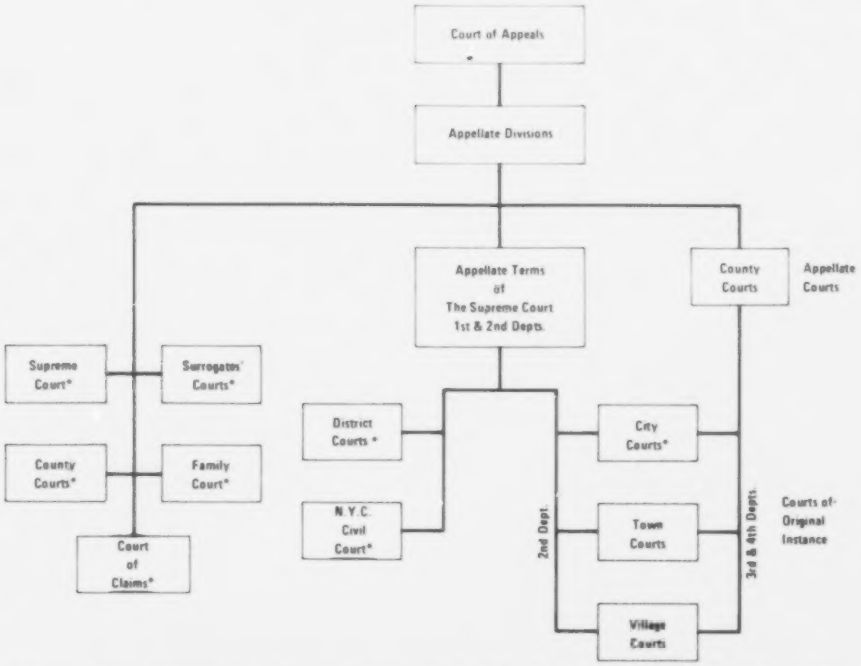
As prescribed by Section 4, Article VI of the Constitution, justices of the Supreme Court are designated to the Appellate Divisions by the Governor. The Governor designates the Presiding Justice of each Appellate Division, who serves for the length of his or her term of office as a justice of the Supreme Court. Associate justices are designated for

Figure 1-a
NEW YORK STATE JUDICIAL SYSTEM
Criminal Appeals Structure



*Appeals involving death sentences must be taken directly to the Court of Appeal.

Figure 1-b
NEW YORK STATE JUDICIAL SYSTEM
Civil Appeals Struture



*Appeals from judgments of courts of record of original instance that finally determine actions where the only question involved is the validity of a statutory provision under the New York State or United States Constitution may be taken directly to the Court of Appeals. Only some of the City Courts are courts of record.

five-year terms or for the remainder of their terms of office, whichever period is shorter.

The *Supreme Court* has unlimited, original jurisdiction, but it generally hears cases outside the jurisdiction of other courts, such as:

— Civil matters beyond the financial limits of the lower courts' jurisdiction;

— Divorce, separation, and annulment proceedings;

— Equity suits, such as mortgage foreclosures and injunctions; and

— Criminal prosecutions of felonies and indictable misdemeanors in New York City.

Supreme Court justices are elected by judicial district for 14-year terms.

The *County Court* is established in each county outside New York City. It is authorized to handle criminal prosecution of offenses committed within the county, although in practice, most minor offenses are handled by lower courts. The County Court also has limited jurisdiction in civil cases generally involving amounts up to $10,000.

County Court judges are elected in each county for terms of 10 years.

The *Surrogate's Court* is established in every county and hears cases involving the affairs of decedents, including the probate of wills and the administration of estates, and adoptions.

Surrogates are elected for terms of 10 years in each county outside New York City and for terms of 14 years in each county in New York City.

The *Family Court* is established in each county and the City of New York to hear matters involving children and families. The principle types of cases it hears include:

— Juvenile delinquency;

— Child protection;

— Persons in need of supervision;

— Review and approval of foster-care placements;

— Paternity determinations;

— Family offenses;

— Adoptions (concurrent jurisdiction with Surrogate's Court); and

— Support of dependent relatives.

Family Court judges are elected for 10-year terms in each county outside New York City and are appointed by the Mayor for 10-year terms in New York City.

The *New York City Civil Court* tries civil cases involving amounts up to $10,000. It includes a Small Claims Part for informal disposition of matters not exceeding $1,000 and a Housing Part for housing-code violations. New York City Civil Court judges are elected for 10-year terms. In addition to Civil Court judges, special Housing judges are appointed for 5-year terms to sit in Housing Parts. They are not, however, constitutional judges. The appointments are made by the Administrative Judge of the Civil Court.

The *New York City Criminal Court* conducts trials of misdemeanors and violations. Criminal Court judges also act as arraigning magistrates for all criminal offenses. New York City Criminal Court judges are appointed by the Mayor for 10-year terms.

There are four kinds of courts of lesser jurisdiction outside New York City: *District, City, Town* and *Village Courts*. These four courts handle minor civil and criminal matters. The methods of selection and the terms of office of judges of these courts vary throughout the state.

The *Court of Claims* is a special trial court that hears and determines claims against the State of New York. Court of Claims judges are appointed by the Governor, with the advice and consent of the Senate, for nine-year terms.

Table I shows the authorized number of judges in the New York State judicial system.

1.2 Court Administration

Section 28 of Article VI of the State Constitution, as amended November 8, 1977, effective April 1, 1978, provides that the authority for administrative supervision of the court system is vested in the Chief Judge of the Court of Appeals. The Chief Judge appoints a Chief Administrator of the Courts (who is called the Chief Administrative Judge of the Courts if the appointee is a judge) with the advice and consent of the Administrative Board of the Courts. The Administrative Board consists of the Chief Judge as chairman and the Presiding Justices of the four Appellate Divisions of the Supreme Court.

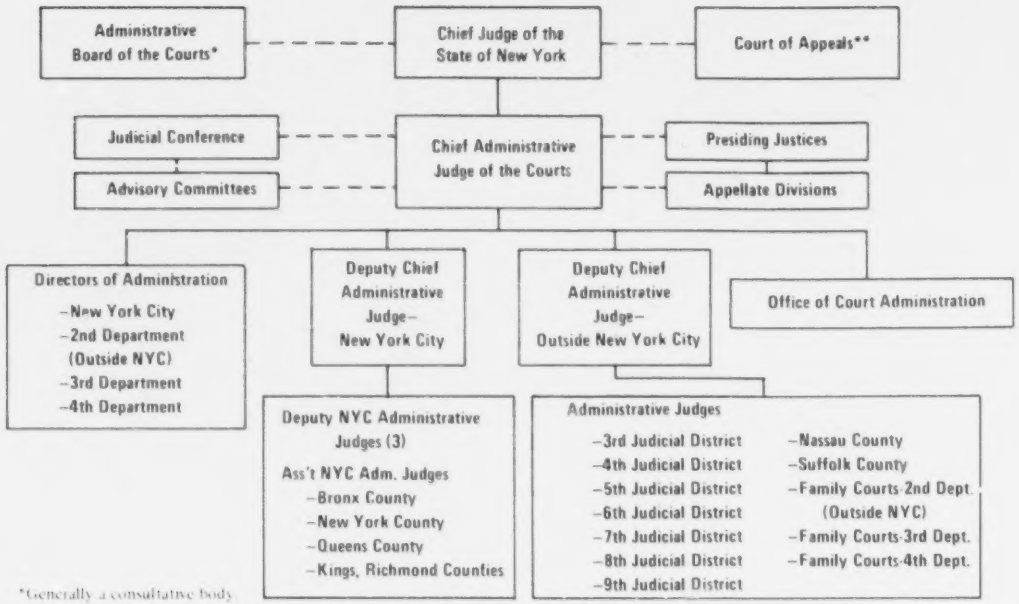
The Chief Administrator, on behalf of the Chief Judge, is responsible for supervising the administration and operation of the trial courts and for directing the Office of Court Administration, which he establishes.

The Chief Judge establishes statewide administrative standards and policies after consultation with the Administrative Board and promulgates them after approval by the Court of Appeals.

Chapter 156 of the Laws of 1978 implements these constitutional provisions. Sections 211-213 of Article 7-A of the Judiciary Law set forth the administrative functions of the Chief Judge, the Chief Administrator, and the Administrative Board. (See figures 2 and 3.)

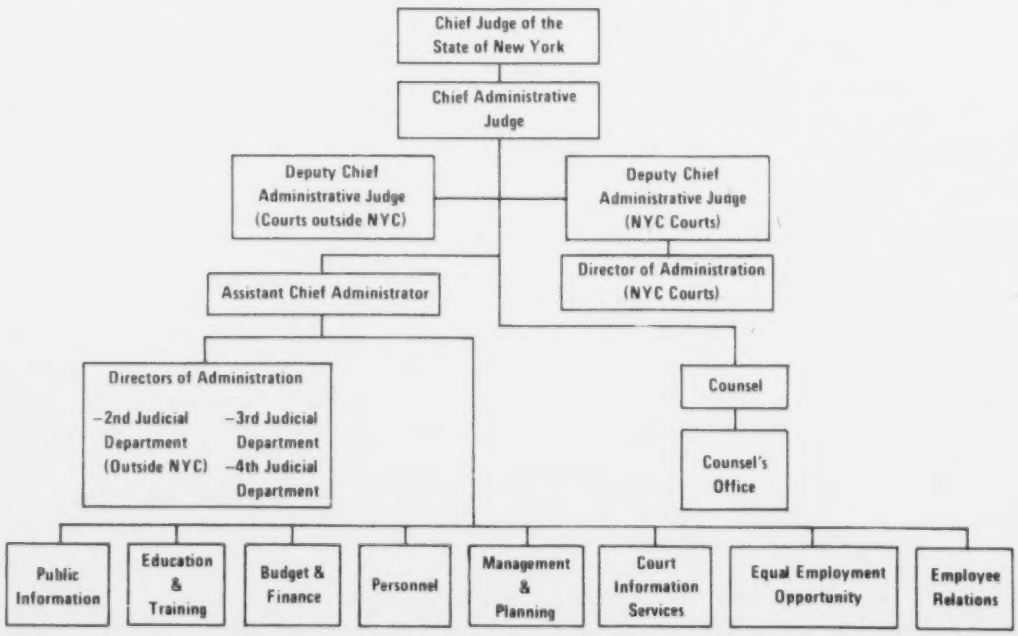
The principal administrative actions of the Chief Judge in 1979 were the following:

Figure 2
NEW YORK STATE JUDICIAL SYSTEM
Administrative Structure



*Generally a consultative body.
**After consultation with the Administrative Board, the Chief Judge submits standards and administrative policies to Court of Appeals for approval.

Figure 3
ORGANIZATION CHART
Office of Court Administration



On October 31, 1979, Chief Judge Lawrence H. Cooke announced a plan to reduce court congestion and delay. The plan has three components: (1) transfer of judges, (2) expansion of alternative dispute resolution by arbitration, and (3) increasing judicial bench time. Under the plan, which went into effect on January 1, 1980, 242 judges and justices are to be transferred to the busiest courts to establish 33 additional court parts in the 11 counties that, according to the summer 1979 inventory, accounted for 85 percent of more than 60,000 civil cases pending in Supreme Court and for 95 percent of the more than 20,000 civil cases that were pending for more than 15 months. The 11 counties are the five in New York City and Nassau, Suffolk, Westchester, Onondaga, Monroe, and Erie Counties.

These 11 counties also accounted for 85 percent of the backlog of 13,000 felony indictments and for 93 percent of over 2,000 felony indictments pending for more than 9 months. While those figures represented an improvement since the Standards and Goals were adopted in 1975 (see Chapter 2), they were still unacceptable. The plan, therefore, called for transferred judges to be assigned, wherever necessary, to continue the progress in reducing delays in the disposition of felony indictments.

Arbitration programs, which have been operating successfully in Bronx, Broome, Monroe, and Schenectady Counties, are being established in 17 additional counties; and the monetary limit for arbitration has been increased to $6,000. Also, judicial vacations have been shortened by two weeks and court hours have been lengthened to increase bench time.

In 1979, Chief Judge Cooke also (1) appointed Supreme Court Justice Herbert B. Evans Chief Administrative Judge effective March 1, 1979, (2) promulgated a rule (22 NYCRR 25.45) establishing a classification plan for nonjudicial personnel pursuant to section 39 of the Judiciary Law, (3) adopted an amendment, amending the rule relating to hours of court, to establish the hours of court throughout the State as commencing not later than 9:30 a.m. and concluding not before 5:00 p.m., (4) adopted administrative standards, pursuant to sections 243 and 246 of the Family Court Act, to regulate the designation of lawyers who may be appointed law guardians to represent minors in Family Court proceedings, (5) amended the rule defining "classified service" in the Unified Court System to exclude Housing judges of the New York City Civil Court and hearing examiners of the Family Court (22 NYCRR 25.7), (6) repealed a rule, dealing with the timeliness of pretrial motions in criminal cases, that had been superseded by changes in the Criminal Procedure Law (former 22 NYCRR 31.5), and (7) promulgated a rule requiring the random selection of sheriff's jurors (22 NYCRR 20.18).

The principal administrative actions of Chief Administrative Judge Herbert B. Evans in 1979 were the following: (1) adopted a uniform calendar rule governing the note of issue and statement of readiness (22 NYCRR Part 3), (2) by order implementing Chapter 79, Laws of 1979, required evening sessions for all Small Claims Courts, (3) amended the Rules Governing Judicial Conduct to provide that the prohibition against taking photographs in a courtroom or the broadcasting or telecasting from a courtroom, without the permission of the Chief Judge, does not apply to applications made to the appropriate court for photographing, taping, or videotaping by or on behalf of the parties to the litigation for the sole purpose of the litigation and not for public dissemination, (4) designated Supreme Court Justice E. Leo Milonas Deputy Chief Administrative Judge for the New York City Courts, (5) amended the department-wide rules for the trial and special terms of Supreme Court in the Third Judicial Department to provide that in an uncontested matrimonial action, a transcript of the testimony taken at the inquest shall not be required as a condition precedent to the signing of the judgment and the filing of the judgment roll unless the justice presiding shall otherwise direct (22 NYCRR 862.8), (6) delegated to the Deputy Chief Administrative Judges within and outside the City of New York the authority to discipline and remove certain nonjudicial personnel, pursuant to section 25.32 of the Rules of the Chief Judge (22 NYCRR 25.32), (7) repealed 22 NYCRR 839.6 of the Rules of the Supreme Court in the Third Judicial Department which related to held-ready calendar procedures in the Fourth Judicial District, (8) established a new statewide job classification structure for the 9,600 nonjudicial personnel of the courts, (9) implemented rules adopted by the Appellate Divisions mandating biennial registration of attorneys, and (10) issued a directive prescribing the hearing of all uncontested matrimonial cases by nonjudicial referees.

The principal accomplishments of the operating units of the Office of Court Administration in 1979 were the following:

The Office of Budget and Finance continued to develop and implement fiscal policies and procedures to ensure the orderly operation of all courts and court-related agencies. A central purchasing unit was set up to serve as coordinator for establishing policies and procedures for the procurement of all equipment and supplies.

A major effort was started by the Budget and Finance Office to improve the administration of juror management and law guardian operations. In addition, financial mechanisms were implemented to support the efforts of the plan to reduce calendar congestion.

The concept of program budgeting continued to be incorporated into the Judiciary budget process. A program format was put into operation for use in the courts of original jurisdiction, enhancing the value of the budget as a planning document and allowing a more comprehensive analysis capability. Work continued to further automate the budget process.

The office continued to serve as the liaison between the Judiciary and the Legislature and the Executive Branch on fiscal policies and procedures and on the fiscal implications of program proposals.

The Management and Planning Office began a number of new projects while continuing to carry out its regular functions.

The focus of many projects was the plan to reduce case delay. Activities related to the plan involved the revision of criminal and civil reporting systems, the revision of Stan-

dards and Goals reports, and the implementation of arbitration programs in 13 additional counties outside New York City.

Management and Planning staff developed, in concert with committees of court clerks and judges, the first staffing guidelines for all trial courts and embarked on a three-year project to develop the first uniform procedures manuals for those courts.

In response to requests from other OCA units, staff were also involved in studies relating to jury management, records retention, classification appeals, appellate court statistics, and collective bargaining analysis. At the request of individual courts, staff also were involved in a review of procedures in the Nassau District Court and in a full study of both procedures and records processing in the city courts of the Ninth Judicial District.

The Personnel Office, as mandated by the Unified Court Budget Act of 1976, completed and implemented a classification plan encompassing job specifications, jurisdictional classifications, career paths and promotional units, and salary grade allocations for the 10,000 nonjudicial positions in the Unified Court System. The plan includes an appeals process. It allows employees or employee groups on their behalf to challenge the main aspects of their classifications. The Personnel Office, which is responsible for conducting the first stage of the appeals process, put into place a mechanism for the Chief Administrative Judge to make the initial determinations. These are reviewable at the second stage by a special Classification Review Board on the employee's initiative. The board consists of three members appointed by the State Comptroller, the Chairman of the State Public Employment Relations Board, and the President of the Civil Service Commission, respectively.

As a result of the classification plan, 2,500 nonjudicial positions were earmarked for further review to determine appropriate titles in the new classification structure. Efforts toward this end were begun during the year.

In addition, examinations were developed and administered to over 30,000 candidates for such titles as senior court reporter, associate and principal court clerk, and office assistant. Examinations also were developed for a number of other competitive titles for administration in 1980. To ensure the job relatedness and validity of its examinations, the office undertook a comprehensive program of job analysis studies designed to identify tasks, knowledge, skills, and abilities related to satisfactory performance of each job in the Judiciary.

The office also devised a system for appraising the performance of probationary employees that will be put into place in 1980. This system will be extended to permanent employees in the near future.

Efforts continued on the development of a computerized personnel system for maintaining employee history data and on the development of a personnel policy and procedures manual for statewide use.

The Office of Employee Relations negotiated 18 new contracts with 24 unions representing 8,600 nonjudicial court employees.

The Court Information Service continued to provide the criminal courts of New York City the capabilities of the Offender Based Transaction System (OBTS). The system includes reporting of criminal dispositions, production of court calendars, maintenance of case histories, production of docket books, sealing of records, and other related court record-keeping functions.

The effort to transfer the processing involved in the OBTS system to an in-house computer using hardware and software supplied by a vendor was unsuccessful, and ultimately the contract was cancelled. At that point, a plan was formulated to acquire mini-computers which will be used to provide continuity of the existing OBTS functions and a large general purpose computer with which to handle current administrative systems and on which to develop new applications. By the end of 1979, this new system was fully operational at the new site in Albany, and the computer at 270 Broadway in New York City had been discontinued.

In spite of the great amount of time and effort expended on the attempt to convert OBTS applications to an in-house operation using a new computer system, two major new projects were undertaken. Specifications were developed for a generalized system designed to automate many of the activities in Commissioners of Jurors offices. By the end of 1979, programming was well underway and implementation was expected in Erie and Monroe Counties early in 1980. In addition, specifications were developed for a system designed to automate many of the functions in the Civil Terms of the Supreme Court. Nassau County was chosen as the pilot location for this system, and programming was well underway on this project by the end of the year.

The Equal Employment Opportunity Office, in its continuing role of promoting equal opportunity for minorities, women, and the handicapped in the Unified Court System, conducted many affirmative action projects. The office designed a statewide affirmative action program that will result in the opening of offices in Buffalo and Albany. The offices will be responsible for EEO activities in the Third and Fourth Judicial Departments.

In the area of recruitment, the EEO Office increased the number of minority members and women who applied to take examinations for court positions. Of the 7,000 persons who applied to take the office assistant series examinations, 4,000 were recruited by the EEO Office with the help of community organizations, colleges, and schools that focus on providing employment services to minorities and women. In conjunction with Boricua College and the Commonwealth of Puerto Rico, the office conducted three seminars designed to prepare Hispanic candidates for the interpreters examination. Of the 800 candidates, 220 were seminar participants. Nine minorities were placed in noncompetitive and exempt positions through the EEO community outreach program.

In addition, 50 percent of the complaints of discrimination handled by the EEO Office were resolved satisfactorily for

both the employee and management; the circulation of the quarterly newsletter, EEON, was increased to 8,000 per quarter, and counseling services were provided to over 200 employees.

The contributions of the Education and Training Office and of the Counsel's Office to the work of the Office of Court Administration in 1979 are described in Chapters 5 and 6, respectively.

1.3 Court Finances

For the New York State fiscal year ending March 31, 1980, the anticipated expenditures for operating all the state courts, except town and village justice courts, was $369.79 million.* Of this total, the state paid $286.88 million (77%); local units of government paid $46.47 million (13%); and user fees amounted to $36.44 million (10%), as shown below:

— *State Support:*	
Balance of appropriation after receipt of local support and fees	$286.88 million
— *Local Support:*	
Chargeback and First Instance	45.32 million
Security Costs	1.15 million
Local support total	46.47 million
— *User Fees:*	36.44 million
Grand Total	$369.79 million

*Includes deficiency requests of $9.2 million.

Section 39 of the Judiciary Law provides for the funding of the Judiciary by:

— Establishing state funding of all state, county-level, district, and city courts in the first instance commencing April 1, 1977;

— Relieving local governments of funding responsibilities for state, county-level, district, and city courts, including courtroom security costs, over a four-year period, commencing with a 12.5-percent reduction in the state's 1977-78 fiscal year, a 50-percent reduction in the state's 1978-79 fiscal year, and a 75-percent reduction in the state's 1979-80 fiscal year, with full assumption of such costs in fiscal year 1980-81;

— Transferring court fee revenue to the state treasury beginning April 1, 1977;

— Establishing affected court personnel as state employees beginning April 1, 1977.

For fiscal year 1979-80, the amount of local support for each city and county was 25 percent of the net 1976-77 cost as determined by section 39 of the Judiciary Law. Fiscal responsibility for courtroom space and related utility costs remains with the localities.

In addition to appropriations made directly to the courts, the state is assuming the costs of local court security services that were not directly appropriated in court budgets. The total amounts to $4.6 million, and the Unified Court Budget Act provides that affected localities may bill the state for actual costs up to 75 percent of the amount in fiscal year 1979-80, or $3.45 million.

Table 1

THE NEW YORK STATE JUDICIAL SYSTEM
Authorized Number of Judges

Dec. 31, 1979

Number of Judges	*Court*
7	Court of Appeals
24[a]	Supreme Court, Appellate Division
263[ab]	Supreme Court, Trial Parts
40[a]	Supreme Court – Certificated Retired Justices
17	Court of Claims
26	Court of Claims – Judges appointed pursuant to Chapter 603, Laws of 1973, Emergency Dangerous Drug Control Program
35	Surrogates' Courts — Including 6 Surrogates in the City of New York
58	County Courts – County Judges Outside the City of New York, in counties that have separate Surrogates and Family Court Judges
9	County Courts – County Judges who are also Surrogates
8[c]	County Courts – County Judges who are also Family Court Judges
28	County Courts – County Judges who are also Surrogates and Family Court Judges
107	Family Courts – Including 39 Family Court Judges in the City of New York
98	Criminal Court of the City of New York
120	Civil Court of the City of New York
49	District Courts – in Nassau and Suffolk
149	Courts of Various Names and Jurisdictions in the 61 Cities Outside the City of New York – Including Acting and Part-Time Judges
1,038	Total
2,424	Town and Village Justice Courts

[a]In addition to the 24 Supreme Court Justices permanently authorized, 9 Justices and 12 Certified Retired Justices were temporarily designated to the Appellate Division.

[b]Does not include judges of other courts, especially the Civil and the Criminal Courts of the City of New York, who sat as Acting Supreme Court Justices during the year.

[c]Does not include the new County Judge in Steuben County who is also Family Court Judge authorized by the 1979 Session Laws Chapter 207 effective January 1, 1980.

Chapter 2

Standards and Goals

On July 3, 1975, the Administrative Board of the Judicial Conference approved standards and goals for the timely completion of fact-finding in Family Court proceedings and the timely disposition of felony indictments in Supreme Court and County Court, and of civil actions in Supreme Court. These goals were scheduled to be achieved in stages between October 1, 1975, and January 1, 1979, under the supervision of the administrative judges. (See Chapter 2 of the 21st Annual Report.)

In a forward to the standards and goals, then State Administrative Judge Richard J. Bartlett said:

> "There is intolerable delay in the disposition of cases in the unified court system, the degree of delay varying from court to court and county to county. Our goal is to reduce delay where it exists by requiring that all courts comply with these standards ...
>
> "We recognize that timeliness of disposition is not the only, or indeed the primary, goal of the unified court system. The more important goal is improving the fairness of the judicial process. But delay erodes fairness so deeply that our first effort must be directed to its elimination. When court calendars are up to date, we will have done a great deal to improve the fairness of the process. We are, of course, addressing other measures which will further improve the quality of justice in the unified court system."

A summary of the progress made by the courts, during 1979, in complying with the standards and goals follows.

2.1 Family Court

The standards and goals provided that by April 1, 1979, fact-finding shall be completed within 90 days and disposition within 180 days of the commencement of a new proceeding or a proceeding involving a modification or a violation of a previous order.

The standard was to be achieved in two stages. The first stage provided that by January 1, 1979, a fact-finding hearing be completed within 90 days of the commencement of a proceeding. Stage two provided that by April 1, 1979, disposition be achieved within 180 days of the commencement of a proceeding, in addition to the provisions of stage one.

As of December 31, 1979, the intermediate standard had been complied with in more than 90 percent of the proceedings filed since October 1978 in 54 of the 63 reporting units (62 county Family Courts and a special New York City Family Court part engaged in reviewing foster-care proceedings).

In 39 counties, over 95 percent of the proceedings had met the standard. Only in Queens County were fewer than 80 percent of the proceedings in compliance. (See Table 2.)

As of October 1, 1976, 10 counties and the New York Foster Care Review unit had compliance rates which were less than 85 percent. But by December 31, 1979, only 2 counties had compliance rates below this level. Moreover, in New York City (which includes the first, second, and eleventh judicial districts), the rate increased from 72.7 percent as of October 1976, to 85.5 percent as of December 1977, and to 87.4 percent as of December 1978. As of December 1979, there was a slight decrease (0.4 percent) to 87.0 percent.

In summer 1975, before adoption of the standards and goals, 52 percent (27,401) of all Family Court proceedings had been awaiting completion of fact-finding for more than 90 days. By August 1, 1978, that figure had decreased to 18 percent. This figure decreased further, by August 1, 1979, to 14 percent.

Progress with the 180-day disposition standard has been very good. Since the inception (August 1979) of disposition monitoring in the monthly Standards and Goals Administrative Judge Term Reports, only Suffolk County had a disposition compliance rate of less than 90 percent.

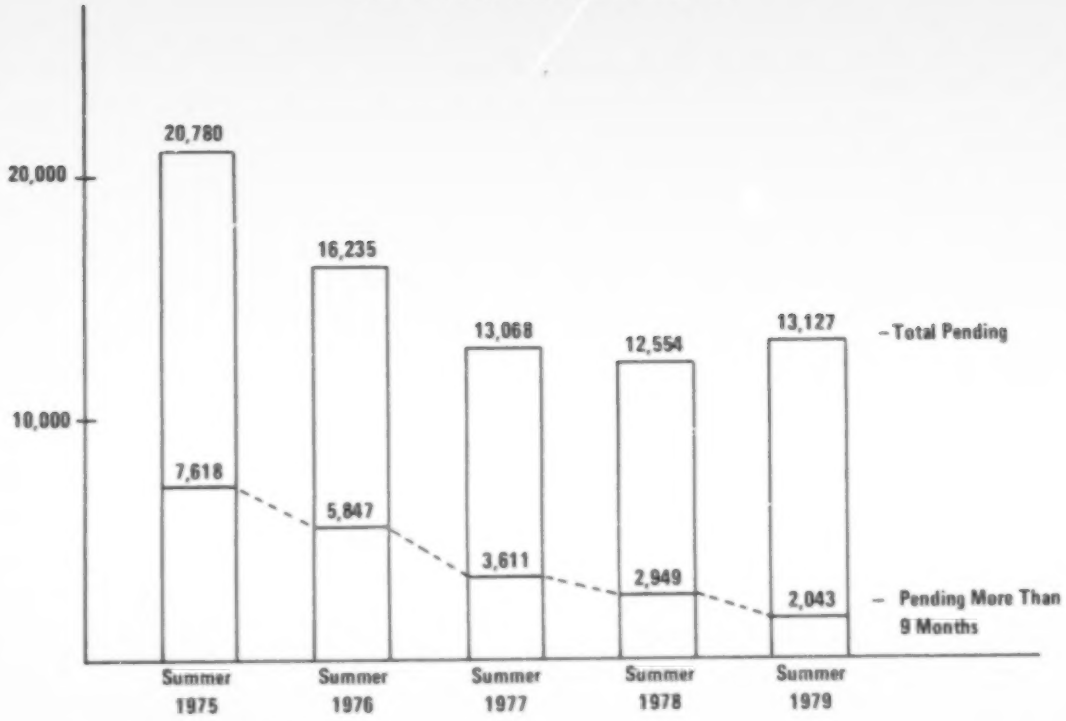
2.2 Criminal Actions

The standards and goals provided that by January 1, 1980 no felony case shall have been pending more than six terms from the filing of an indictment. The standard was to be achieved in five stages. The third stage provided that by July 1, 1978, no defendant-indictment alleging a felony charge should have been pending more than nine months from the filing of an indictment. This was followed by the fourth stage which provided that by March 1, 1979, no Class A or violent felony should have been pending more than six months.

Statewide, 7,618 defendant-indictments alleging felony charges have been pending more than nine months as of summer 1975. The figure declined by 61 percent to 2,949 in summer 1978, and by 73 percent to 2,043 in summer 1979.

Figure 4
Pending Defendant—Indictments Statewide by Year

Summer 1975, 1976, 1977, 1978, 1979



Source: OCA Summer Inventory

Over the past five years, the number of defendant-indictments pending more than nine months was reduced in eight judicial districts and in New York City (districts 1, 2, and 11). As of the summer of 1979, there were 587 defendant-indictments which had been pending for more than nine months in the districts outside New York City. This represents almost a 70 percent decrease from the 1,930 cases which were pending more than nine months as of summer 1975. New York City has also demonstrated significant progress in this regard, going from a figure of 5,688 cases in the summer of 1975 to 1,456 cases pending more than nine months as of summer 1979. This is a 74 percent decrease. Further, these figures also indicate a decrease from the summer 1978 statistics (see Table 3).

The decline in the number of "older" cases as well as the decline in the total number of pending defendant-indictments may be seen by referring to Figure 4. The number of cases older than nine months composed 37 percent of the pending caseload in 1975 and 23 percent of the 1978 pending caseload. During 1979, this figure decreased to only 16 percent of the pending caseload.

Progress has continued in reducing the number of felony defendant-indictments in which the defendant had been jailed for more than one year while awaiting commencement of trial or disposition. Statewide, this figure reduced 67 percent, from 349 as of October 1, 1975, to 116 as of summer 1979. These 116 defendant-indictments represented 94 defendants. (The number of defendants is shown in parentheses in Table 4.) Outside New York City, there were seven counties — Dutchess (1 defendant), Orange (4 defendants), Westchester (3 defendants), Nassau (1 defendant), Ulster (1 defendant), Monroe (2 defendants), and Erie (2 defendants) — which had defendants in jail for more than one year, as of December 31, 1979.

In New York City there were 321 defendant-indictments representing felony defendants jailed for more than one year as of October 1, 1975. As of December 31, 1979, this number decreased by 68 percent to 102 defendant-indictments for felony defendants in jail for more than one year. The New York City counties showed individual progress. In Bronx County, the number decreased by 90 percent from 68 to 7 defendant-indictments; in New York County it decreased 48 percent, from 100 to 52; in Kings County it decreased 72 percent, from 135 to 38; in Queens County it decreased 78 percent, from 18 to 4. Richmond County had no jailed felony defendants as of October 1, 1975, and only one as of December 31, 1979. The number of year-old jailed defendant-indictments in New York City increased very slightly (less than one percent) from 101 to 102 for the period December 31, 1978, to December 31, 1979.

2.3 Civil Actions

The standards and goals for the disposition of civil actions in Supreme Court now provide that no civil action shall have been pending more than 15 terms from the filing of a note of issue.

There has been very little progress toward achieving the standards and goals for disposition of civil actions in the Supreme Court. In summer of 1975, the number of civil actions pending more than 18 months was 11,883; in summer 1979, this number rose 27 percent to 16,175. For civil actions pending more than 12 months, the figures rose 29 percent from 19,997 in summer 1975 to 25,830 in summer 1979. Over the same period, the total number of civil actions pending increased 17 percent from 52,942 in 1975 to 61,778 in 1979. (See Figure 5, Table 5, and Table 6.)

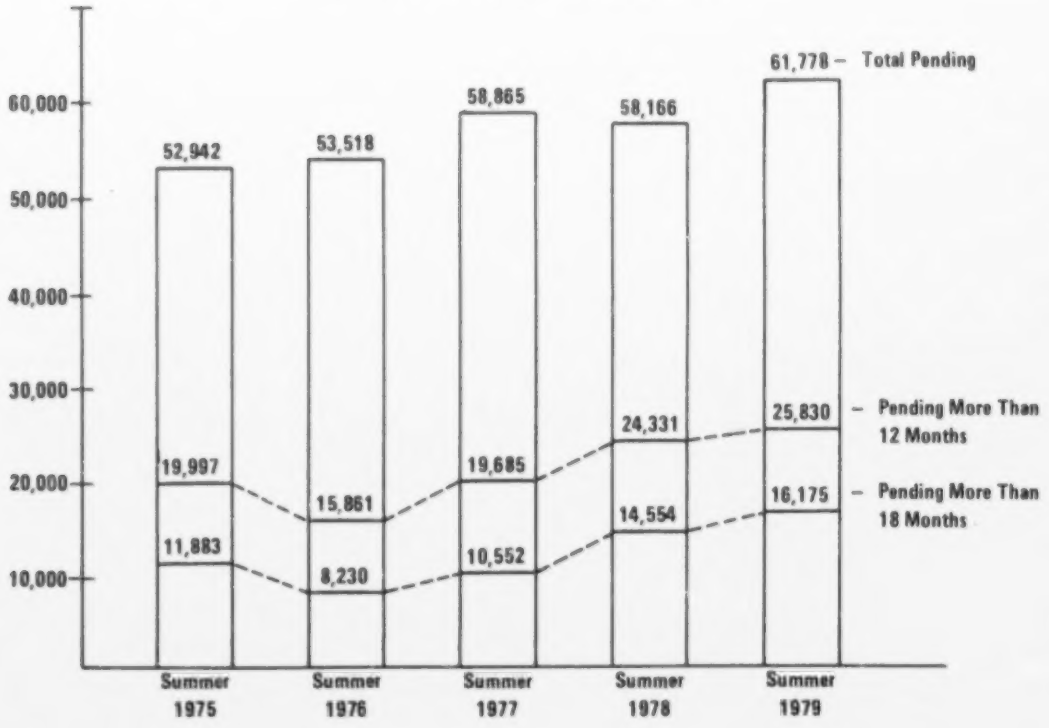
Half of this increase in older civil actions is attributed to New York City, where between summer 1975 and summer 1979, the number of civil actions pending more than 18 months increased 148 percent, compared with a 2 percent decrease upstate. An analysis of civil actions pending more than 18 months in New York City showed that 50 percent were cases in which the City of New York is a defendant. These "City cases" have historically been difficult to dispose of in a timely manner.

Inspection of the figures for civil actions pending more than 12 months shows that districts outside of New York City had a 9 percent decrease from 15,318 in summer 1975 to 13,955 cases pending longer than 12 months as of summer 1979. New York City, however, experienced a 154 percent increase over this period.

New York City has also experienced an 83 percent increase in the total number of pending civil actions over the past five years, from 14,549 in 1975 to 26,659 in 1979, whereas upstate counties realized a decrease of roughly 9 percent, from 38,393 in 1975 to 35,119 in 1979.

The number of civil actions pending more than 18 and more than 12 months as percentages of total caseload is shown in Table 6. As of summer 1979, 26 percent of the caseload had been pending more than 18 months statewide; 28 percent in New York City, and 25 percent in upstate counties. As for cases pending more than 12 months, the figures are 42 percent statewide, 45 percent in New York City, and 40 percent upstate. It is anticipated that there will be a marked improvement in these figures during 1980 as a result of the plan to reduce court congestion and delay (see Chapter 1).

Figure 5
Pending Civil Actions Statewide by Year
Summer 1975, 1976, 1977, 1978, 1979



Source: OCA Summer Inventory.

Table 2

STANDARDS AND GOALS
Percentage of Family Court Proceedings Completing Fact Finding in 90 Days or Less by County and Judicial District
Oct. 31, 1976, Dec. 31, 1977, 1978, Dec. 30, 1979

County	Oct. 31, 1976	Dec. 31, 1977	Dec. 31, 1978	Dec. 30, 1979
Albany	99.8	99.0	100.0	100.0
Allegany	84.9	92.8	97.6	94.6
Bronx	75.7	77.4	83.7	80.1
Broome	98.8	99.9	100.0	100.0
Cattaraugus	90.0	94.1	97.5	95.9
Cayuga	97.0	99.2	100.0	99.9
Chautauqua	95.3	97.5	96.6	98.3
Chemung	94.1	97.0	97.5	96.8
Chenango	97.9	98.1	98.6	98.7
Clinton	99.8	99.7	99.6	99.3
Columbia	92.4	98.9	98.9	98.3
Cortland	98.4	96.9	97.9	97.8
Delaware	96.9	99.5	99.8	100.0
Dutchess	81.8	90.4	91.5	94.9
Erie	92.7	89.3	86.0	91.7
Essex	83.9	97.0	96.9	98.4
Franklin	95.6	89.5	98.7	98.0
Fulton	97.8	97.9	96.6	97.7
Genesee	96.1	94.7	94.6	95.8
Greene	97.3	97.0	98.0	94.8
Hamilton	95.5	98.8	98.4	92.7
Herkimer	96.6	97.2	97.1	95.7
Jefferson	97.6	99.1	99.9	100.0
Kings	77.6	92.6	95.3	94.0*
Lewis	95.8	98.3	97.5	100.0
Livingston	80.4	96.8	94.8	97.7
Madison	99.3	99.9	99.9	99.8
Monroe	78.3	85.2	83.2	91.6
Montgomery	97.5	99.2	98.8	97.7
Nassau	95.4	90.2	89.9	94.3
New York	72.0	84.0	90.2	85.1
New York Foster Care	62.8	87.1	87.8	88.7
Niagara	85.3	97.6	96.5	97.8
Oneida	94.3	96.5	98.2	96.5
Onandaga	91.9	92.8	89.3	89.9
Orange	97.5	98.6	98.8	98.8
Orleans	88.0	85.7	83.3	89.8
Oswego	97.9	95.8	97.9	97.5
Otsego	97.8	99.4	97.8	99.3
Putnum	98.7	96.5	92.4	85.8
Queens	77.5	79.8	77.4	79.7*
Rensselaer	97.2	99.5	99.3	100.0
Richmond	99.1	94.6	94.0	96.9
Rockland	95.6	96.5	87.6	88.5
St. Lawrence	96.7	95.9	90.9	96.5
Saratoga	97.1	98.8	98.2	95.4
Schenectady	99.1	99.0	98.7	99.0
Schoharie	99.5	100.0	98.8	96.4
Schuyler	99.1	100.0	100.0	100.0
Seneca	89.5	91.4	92.4	95.2
Steuben	93.8	95.3	94.3	92.4
Suffolk	84.0	84.5	84.3	91.0
Sullivan	96.9	97.7	99.0	99.7
Tioga	97.0	99.5	99.5	99.8
Tompkins	85.8	82.9	95.1	98.9
Ulster	93.2	89.9	92.3	94.9
Warren	91.4	98.8	98.5	98.7
Washington	97.5	99.3	98.8	99.5
Wayne	91.7	95.2	97.3	94.6
Westchester	92.9	88.9	89.3	86.9
Wyoming	90.9	92.5	91.8	93.6
Yates	93.9	96.9	96.1	94.9
Judicial District				
New York City 1, 2, & 11	72.7	85.5	87.4	87.0*
District 3	96.9	97.8	98.3	98.6
District 4	97.0	97.5	97.4	97.8
District 5	94.0	94.7	93.4	93.2
District 6	97.4	97.5	98.8	99.1
District 7	84.5	89.6	88.8	93.3
District 8	91.9	92.0	89.8	93.5
District 9	92.4	91.0	91.3	90.4
District 10	89.5	86.7	86.6	92.3

*Estimate Source: Family Court Administrative Judge Term Reports: December 1975 through October 1976, January 1977 through December 1977, January 1978 through December 1978, and January 1979 through December 1979.

Table 3

STANDARDS AND GOALS
Defendant-Indictments Alleging Felony Charges Pending for More Than Nine Months by County and Judicial District
Summer 1975, 1976, 1977, 1978, 1979

County	Summer 1975	Summer 1976	Summer 1977	Summer 1978	Summer 1979
Albany	47	41	28	16	6
Allegany	15	5	1	0	0
Bronx	1,171	1,077	706	420	298
Broome	17	8	4	2	2
Cattaraugus	6	0	0	2	0
Cayuga	3	6	2	2	1
Chautauqua	24	3	1	1	0
Chemung	18	20	5	12	1
Chenango	0	0	0	0	2
Clinton	34	30	8	3	0
Columbia	3	11	8	17	2
Cortland	0	0	4	1	5
Delaware	2	2	0	0	0
Dutchess	35	59	5	5	1
Erie	129	165	122	281	119
Essex	18	5	1	4	0
Franklin	7	0	4	6	7
Fulton	0	6	0	0	0
Genesee	4	1	2	0	0
Greene	75	29	29	10	2
Hamilton	0	0	0	0	0
Herkimer	1	4	1	2	5
Jefferson	2	7	0	2	4
Kings	2,178	1,291	702	496	362
Lewis	0	1	4	2	3
Livingston	17	8	4	0	2
Madison	7	0	2	2	0
Monroe	138	200	112	226	82
Montgomery	4	2	1	2	9
Nassau	375	370	118	150	117
New York	1,909	1,241	1,032	558	557
Niagara	6	6	12	16	4
Oneida	29	30	9	29	15
Onondaga	15	28	27	10	6
Ontario	5	3	0	0	0
Orange	40	31	20	3	5
Orleans	1	2	0	7	0
Oswego	2	20	0	5	3
Otsego	3	1	0	1	0
Putnam	4	19	6	0	3
Queens	398	262	234	365	234
Rensselaer	13	30	7	13	6
Richmond	32	48	23	5	5
Rockland	22	5	3	0	1
St. Lawrence	3	2	0	0	1
Saratoga	2	2	0	1	2
Schenectady	3	14	31	18	21
Schoharie	0	0	0	0	1
Schuyler	1	0	0	0	0
Seneca	6	6	0	4	0
Steuben	7	16	2	10	6
Suffolk	358	409	183	168	93
Sullivan	31	26	13	11	2
Tioga	13	11	4	4	0
Tompkins	27	9	7	7	6
Ulster	60	31	45	18	10
Warren	0	3	0	1	3
Washington	6	2	0	2	3
Wayne	3	5	0	1	0
Westchester	286	233	77	28	26
Wyoming	0	1	2	5	0
Yates	3	0	0	0	0
Judicial District					
New York City 1, 2, & 11	5,688	3,919	2,697	1,844	1,456
District 3	299	168	130	85	29
District 4	77	56	45	37	46
District 5	49	90	41	50	36
District 6	88	51	26	29	16
District 7	182	244	120	243	91
District 8	185	183	140	312	123
District 9	387	347	111	56	36
District 10	733	779	301	318	210
Total State	7,618	5,847	3,611	2,954	2,043

Source: 1975, 1976, 1977, 1978 & 1979 summer inventory data on pending defendant-indictments

Table 4

STANDARDS AND GOALS
Number of Defendant-Indictments Where Defendants Have Been Jailed for More Than One Year by County

Oct. 1, 1975, 1976 and Dec. 31, 1977, 1978, Dec. 30, 1979

County	Number of Jailed Defendant-Indictments*				
	Oct. 1, 1975	Oct 1, 1976	Dec. 31, 1977	Dec. 31, 1978	Dec. 30, 1979
New York	100	24	10 (8)	50 (36)	52 (41)
Bronx	68	21	2 (2)	0	7 (5)
Queens	18	11	13 (11)	26 (18)	4 (4)
Kings	135	6	6 (5)	25 (20)	38 (29)
Richmond	0	0	1 (1)	0	1 (1)
Suffolk	9	4	0	0	0
Nassau	3	3	1 (1)	2 (2)	1 (1)
Onondaga	0	1	0	0	0
Orange	3	0	0	0	4 (4)
Tompkins	3	0	0	0	0
Westchester	2	0	0	0	3 (3)
Steuben	2	0	0	0	0
Erie	1	0	7 (7)	6 (6)	2 (2)
Genesee	1	0	0	0	0
Sullivan	1	0	1 (1)	0	0
Ulster	1	0	0	0	1 (1)
Washington	1	0	0	0	0
Oneida	1	0	0	0	0
Monroe	0	0	0	1 (1)	2 (2)
Dutchess	00	0	0	0	1 (1)
Total State	349	70	41 (36)	110 (83)	116 (94)

*The number of defendants is shown in parentheses. Data are not available on the number of defendants jailed for more than one year prior to December 31, 1977.

Table 5

STANDARDS AND GOALS
Summary of Pending Civil Actions in Supreme Court by County, Judicial District and Year
Summer 1975, 1976, 1977, 1978, 1979

County	Total Pending					Pending Longer Than 18 Months					Pending Longer Than 12 Months				
	Summer 1975	Summer 1976	Summer 1977	Summer 1978	Summer 1979	Summer 1975	Summer 1976	Summer 1977	Summer 1978	Summer 1979	Summer 1975	Summer 1976	Summer 1977	Summer 1978	Summer 1979
Albany	1511	1654	1581	1183	977	153	81	133	106	75	383	370	466	459	294
Allegany	48	64	45	59	38	1	3	1	4	1	4	8	6	8	14
Bronx	3627	2101	2258	2701	3221	1200	328	338	908	1292	1830	531	669	1288	1655
Broome	318	245	205	210	276	46	3	0	1	1	91	15	1	4	2
Cattaraugus	74	90	85	70	52	1	6	11	12	6	10	17	20	21	8
Cayuga	80	106	59	55	32	5	0	0	0	0	18	0	0	0	0
Chautauqua	224	234	154	151	155	42	18	12	11	16	76	54	32	35	39
Chemung	393	303	190	108	131	63	35	8	0	0	127	124	23	2	5
Chenango	17	19	24	28	26	1	0	0	0	0	2	1	0	0	0
Clinton	110	130	107	83	82	12	8	2	5	2	18	19	3	11	9
Columbia	61	74	107	71	56	5	6	6	8	1	8	17	12	20	5
Cortland	42	28	17	36	32	3	0	0	0	2	6	0	0	3	4
Delaware	77	89	75	28	40	2	13	1	3	0	20	20	7	4	0
Dutchess	551	479	496	530	467	15	18	19	42	35	110	69	66	143	103
Erie	7033	5012	5745	5454	5746	2139	1424	1957	3261	3330	3637	2440	3028	4185	4030
Essex	76	83	34	33	49	11	10	1	1	4	23	24	10	3	6
Franklin	90	91	90	62	85	15	13	9	21	11	27	24	26	37	18
Fulton	222	253	214	138	148	19	28	12	10	6	36	74	37	31	14
Genesee	51	60	50	74	111	2	0	2	5	3	8	2	30	12	18
Greene	101	116	95	67	58	10	19	12	4	0	26	44	28	8	6
Herkimer	167	151	173	118	113	7	1	1	2	3	20	13	11	11	11
Jefferson	162	255	122	94	104	45	31	4	1	0	76	55	16	2	1
Kings	4050	5368	6304	6375	7680	299	289	1023	1885	3283	693	1098	2376	3224	4499
Lewis	29	25	15	9	10	1	0	0	0	0	1	1	0	0	0
Livingston	55	56	76	39	30	1	0	0	0	1	4	3	2	4	2
Madison	53	27	34	57	55	0	0	0	0	0	2	0	0	0	0
Monroe	3563	2162	2172	2033	1629	333	204	244	364	236	1049	618	735	755	469
Montgomery	177	197	213	160	142	34	33	22	4	11	67	54	64	37	28
Nassau	6304	6519	7118	7211	7854	1599	1169	1810	1924	1662	2744	2590	3063	3059	3113
New York	5300	5631	8289	9558	10650	1408	703	962	1780	2331	1961	1164	1925	3024	4093
Niagara	681	601	390	351	297	146	75	10	6	6	258	141	52	16	27
Oneida	751	650	569	560	581	8	8	10	60	11	49	35	22	99	48
Onondaga	2711	2704	2578	1754	1409	891	810	722	340	179	1460	1345	1263	774	464
Ontario	92	59	60	60	61	0	0	0	0	0	2	3	2	0	1
Orange	800	822	900	663	697	123	70	155	69	55	301	247	313	210	164
Orleans	10	22	16	24	18	0	0	0	0	1	0	0	1	1	0
Oswego	225	130	161	130	201	21	2	10	1	0	39	11	15	2	4
Otsego	46	51	47	39	78	4	0	10	0	2	12	3	2	0	14
Putnam	136	168	173	188	294	36	17	4	1	36	72	21	31	38	92
Queens	1278	3437	4144	3998	4475	87	70	29	426	562	136	127	579	1324	1464
Rensselaer	398	393	350	327	353	65	35	13	19	11	111	51	66	59	81
Richmond	294	396	400	463	623	48	50	41	50	74	59	71	78	112	182
Rockland	704	834	824	977	952	85	45	55	75	39	227	156	154	227	222
St. Lawrence	106	118	82	72	56	7	7	0	2	0	12	14	11	2	0
Saratoga	468	465	332	267	207	48	13	6	4	6	153	145	70	33	12
Schenectady	1374	1616	1420	1202	962	256	422	451	448	281	549	746	729	645	468
Schoharie	38	22	41	42	57	4	0	3	2	5	7	0	9	8	10
Schuyler	6	5	8	1	4	2	0	0	0	0	2	0	0	0	0
Seneca	19	13	26	8	13	0	0	0	0	0	0	2	0	0	0
Steuben	73	56	33	27	60	9	5	2	0	1	9	6	2	1	3
Suffolk	4549	5086	6312	6452	6621	1754	1625	2111	2201	2354	2231	2353	2830	3365	3451
Sullivan	222	296	225	244	202	42	29	13	12	7	63	50	27	42	25
Tioga	60	52	39	35	23	15	4	0	1	0	23	4	1	2	1
Tompkins	121	120	110	106	111	14	3	3	1	1	27	6	4	5	5
Ulster	461	409	376	359	390	25	3	5	6	5	74	19	24	34	23
Warren	148	140	79	44	72	21	24	6	0	0	34	43	13	0	2
Washington	50	48	59	27	61	5	0	1	0	1	13	0	10	1	2
Wayne	64	59	63	48	68	0	0	1	0	1	0	1	1	1	3
Westchester	2512	3087	2837	2860	2718	695	437	278	461	218	996	808	713	927	620
Wyoming	17	21	29	38	50	0	2	3	7	7	1	3	7	10	13
Yates	12	16	25	5	5	0	1	0	0	0	0	1	0	1	0
Judical District															
New York City (1, 2, 11)	14,549	16,933	21,395	23,095	26,659	3,042	1,440	2,393	5,049	7,542	4,679	2,991	5,627	8,972	11,875
District 3	2,792	2,964	2,775	2,293	2,093	304	173	185	157	104	672	551	632	630	444
District 4	2,771	3,141	2,630	2,088	1,864	428	588	510	495	322	932	1,143	973	800	559
District 5	4,045	3,915	3,618	2,665	2,418	973	852	747	404	193	1,645	1,460	1,327	888	528
District 6	1,133	939	749	648	776	150	58	12	6	6	312	173	38	22	31
District 7	3,958	2,527	2,514	2,275	1,898	348	210	247	364	239	1,082	634	742	762	478
District 8	8,138	6,104	6,514	6,221	6,467	2,331	1,528	1,996	3,306	3,370	3,994	2,665	3,176	4,288	4,150
District 9	4,703	5,390	5,230	5,218	5,128	954	587	511	648	383	1,706	1,301	1,277	1,545	1,201
District 10	10,853	11,605	13,430	13,663	14,4[illegible]	3,353	2,794	3,921	4,125	4,016	4,975	4,943	5,893	6,424	6,564
Total State	52,942	53,518	58,855	58,166	61,798	11,883	8,230	10,522	14,554	16,175	19,997	15,861	19,685	24,331	25,830

Source: Standards and Goals Summer Inventory of Pending Civil Actions in Supreme Court – 1975, 1976, 1977, 1978, and 1979. Figures exclude uncontested matrimonials.

Table 6

STANDARDS AND GOALS

Percentage of Civil Actions in Supreme Court Pending Longer Than 18 Months and Longer Than 12 Months by County, Judicial District and Year

Summer 1975, 1976, 1977, 1978, 1979

County	Percentage Pending Longer Than 18 Months					Percentage Pending Longer Than 12 Months				
	Summer 1975	Summer 1976	Summer 1977	Summer 1978	Summer 1979	Summer 1975	Summer 1976	Summer 1977	Summer 1978	Summer 1979
Albany	10.1	4.9	8.4	9.0	7.6	25.3	22.3	29.5	38.8	30.0
Allegany	2.1	4.7	2.2	6.8	2.6	8.3	12.5	13.3	13.6	36.8
Bronx	33.1	15.6	15.0	33.6	39.9	50.5	25.3	29.6	47.7	51.2
Broome	14.4	1.2	0.0	0.5	0.3	28.6	6.1	0.5	1.9	0.7
Cattaraugus	1.4	6.7	12.9	17.1	11.5	13.5	18.9	23.5	30.0	15.3
Cayuga	6.3	0.0	0.0	0.0	0.0	22.5	0.0	0.0	0.0	0.0
Chautauqua	18.6	7.7	7.8	7.3	10.3	33.9	23.1	20.8	23.2	25.1
Chemung	16.0	11.6	4.2	0.0	0.0	32.3	40.9	12.1	1.9	3.8
Chenango	5.9	0.0	0.0	0.0	0.0	11.8	5.3	0.0	0.0	0.0
Clinton	10.9	6.2	1.9	6.0	2.4	16.4	14.6	2.8	13.3	10.9
Columbia	8.2	8.1	5.6	11.3	1.7	13.1	23.0	11.2	28.2	8.9
Cortland	7.1	0.0	0.0	0.0	6.2	14.3	0.0	0.0	8.3	12.5
Delaware	2.6	14.6	1.3	10.7	0.0	26.0	22.5	9.3	14.3	0.0
Dutchess	2.7	3.8	3.8	7.9	7.4	20.0	14.4	13.3	27.0	22.0
Erie	30.4	28.4	34.1	59.8	57.9	52.7	48.7	52.7	76.7	70.1
Essex	14.5	12.0	2.9	3.0	8.1	30.3	28.9	29.4	9.1	12.2
Franklin	16.7	14.3	10.0	33.9	12.9	30.0	26.4	28.9	59.7	21.1
Fulton	8.6	11.1	5.6	7.2	4.0	16.2	29.2	17.3	22.5	9.4
Genesee	3.9	0.0	4.0	6.8	2.7	15.7	3.3	60.0	16.2	16.2
Greene	9.9	16.4	12.6	6.0	0.0	25.7	37.9	29.5	11.9	10.3
Herkimer	4.2	0.7	0.6	1.7	2.6	12.0	8.6	6.4	9.3	9.7
Jefferson	27.8	12.2	3.3	1.1	0.0	46.9	21.6	13.1	2.1	0.9
Kings	7.4	5.4	16.2	29.6	42.7	17.1	20.5	37.7	50.6	58.5
Lewis	3.4	0.0	0.0	0.0	0.0	3.4	4.0	0.0	0.0	0.0
Livingston	1.8	0.0	0.0	0.0	3.3	7.3	5.4	2.6	10.3	6.6
Madison	0.0	0.0	0.0	0.0	0.0	3.8	0.0	0.0	0.0	0.0
Monroe	9.3	9.4	11.2	17.9	14.4	29.4	28.6	33.8	37.1	28.7
Montgomery	19.2	16.8	10.3	2.5	7.7	37.9	27.4	30.0	23.1	19.7
Nassau	25.4	17.9	25.4	26.7	21.1	43.5	39.7	43.0	42.4	39.6
New York	26.6	12.5	11.6	18.6	21.8	37.0	20.7	23.2	31.6	38.4
Niagara	21.4	12.5	2.6	1.7	2.0	37.9	23.5	13.3	4.6	9.0
Oneida	1.1	1.2	1.8	10.7	1.8	6.5	5.4	3.9	17.7	8.2
Onondaga	32.9	30.0	28.0	19.4	12.7	53.9	49.7	49.0	44.1	32.9
Ontario	0.0	0.0	0.0	0.0	0.0	2.2	5.1	3.3	0.0	1.6
Orange	15.4	8.5	17.2	10.4	7.8	37.6	30.0	34.8	31.7	23.5
Orleans	0.0	0.0	0.0	0.0	5.5	0.0	0.0	6.3	4.2	0.0
Oswego	9.3	1.5	6.2	0.8	0.0	17.3	8.5	9.3	1.5	1.9
Otsego	8.7	0.0	0.0	0.0	2.5	26.1	5.9	4.3	0.0	17.9
Putnam	26.5	10.1	2.3	0.5	12.2	52.9	12.5	17.9	20.2	31.2
Queens	6.8	2.0	0.7	10.7	12.5	10.6	3.7	14.0	33.1	32.3
Rensselaer	16.3	8.9	3.7	5.8	3.1	27.9	13.0	18.9	18.0	22.9
Richmond	16.3	12.6	10.3	10.8	11.8	20.1	17.9	19.5	24.2	29.2
Rockland	12.1	5.4	6.7	7.7	4.0	32.2	18.7	18.7	23.2	23.3
St. Lawrence	6.6	5.9	0.0	2.8	0.0	11.3	11.9	13.4	2.8	0.0
Saratoga	10.3	9.2	1.8	1.5	2.8	32.7	31.2	21.1	12.4	5.7
Schenectady	19.3	26.1	31.8	37.3	29.2	41.5	46.2	51.3	53.7	48.6
Schoharie	10.5	0.0	7.3	4.8	8.7	18.4	0.0	22.0	19.0	17.5
Schuyler	33.3	0.0	0.0	0.0	0.0	33.3	0.0	0.0	0.0	0.0
Seneca	0.0	0.0	0.0	0.0	0.0	0.0	15.4	0.0	0.0	0.0
Steuben	12.3	8.9	6.1	0.0	1.6	12.3	10.7	6.1	3.7	5.0
Suffolk	38.6	32.0	33.4	34.1	35.5	49.0	46.3	44.8	52.2	52.1
Sullivan	18.9	9.8	5.8	4.9	3.4	28.4	16.9	12.0	17.2	12.3
Tioga	25.0	7.7	0.0	2.9	0.0	38.3	7.7	2.6	5.7	4.3
Tompkins	11.6	2.5	2.7	0.9	0.9	22.3	5.0	3.6	4.7	4.5
Ulster	5.4	0.7	1.3	1.7	1.2	16.1	4.6	6.4	9.5	5.8
Warren	14.2	17.1	7.6	0.0	0.0	23.0	30.7	16.5	0.0	2.7
Washington	10.0	0.0	1.7	0.0	1.6	26.0	0.0	16.9	3.7	3.2
Wayne	0.0	0.0	1.6	0.0	1.4	0.0	1.7	1.6	2.1	4.4
Westchester	27.7	14.2	9.8	16.1	8.0	39.6	26.2	25.1	32.4	22.8
Wyoming	0.0	9.5	10.3	18.4	14.0	5.9	14.3	24.1	26.3	26.0
Yates	0.0	6.3	0.0	0.0	0.0	0.0	6.3	0.0	20.0	0.0
Judicial District										
New York City (1, 2 & 11)	20.9	8.5	11.2	21.9	28.2	32.2	17.7	26.3	38.8	44.5
District 3	10.9	5.8	6.7	6.8	4.9	24.1	18.6	22.8	27.5	21.2
District 4	15.4	18.7	19.4	23.7	17.2	33.6	36.4	37.0	38.3	29.9
District 5	24.1	21.8	20.6	15.2	7.9	40.7	37.3	36.7	33.3	21.8
District 6	13.2	6.2	1.6	0.9	0.7	27.5	18.4	5.1	3.4	3.9
District 7	8.8	8.3	9.8	16.0	12.5	27.3	25.1	29.5	33.5	25.1
District 8	28.6	25.0	30.6	53.1	52.1	49.1	43.7	48.8	68.9	64.1
District 9	20.3	10.9	9.8	12.4	7.4	36.3	24.1	24.4	29.6	23.4
District 10	30.9	24.1	29.2	30.2	27.7	45.8	42.6	43.9	47.0	45.3
Total State	22.4	15.4	17.9	25.0	26.1	37.8	29.6	33.4	41.8	41.8

Source: Standard and Goals Summer Inventory of Pending Civil Actions in Supreme Court: 1975, 1976, 1977, 1978 and 1979 (excludes uncontested matrimonials).

Chapter 3

Court Operations

The operations of each of the 10 categories of courts described in Chapter 1 are discussed statistically in this chapter of the report. Operating information for the Appellate Courts, the Court of Claims, and the Surrogates' Courts for 1979 is presented on a courtwide basis. Court operation with respect to criminal proceedings, civil actions, and proceedings in the Family Court are discussed as separate topics.

3.1 The Court of Appeals

As noted in Chapter 1, the Court of Appeals is the highest court of the State. In 1979, 645 records on appeal were filed in the Court of Appeals, as shown in Table 7. During this period, 1,822 appeals and motions were decided. The Court also heard oral arguments in 607 cases and decided 1,627 applications for leave to appeal.

Of the 570 appeals decided, 423 involved civil matters and 147 were criminal cases, as shown in Table 8. The basis of jurisdiction in the Court of Appeals in 291 (69%) of the civil appeals disposed of was a reversal, modification, or dissent in the Appellate Divisions. Eighty (19%) of the civil appeals were heard by permission of either the Appellate Divisions or the Court of Appeals.

In the 423 civil appeals disposed of, 268 (63%) judgments or orders were affirmed, 102 (24%) reversed, 29 (7%) modified, and 24 (6%) dismissed. Among the 147 criminal appeals disposed of, 82 (56%) judgments were affirmed, 55 (37%) reversed, and 6 (4%) modified, as shown in Table 8.

In deciding the 570 appeals, judges of the Court of Appeals wrote 512 opinions, as shown in Table 9. These consisted of 424 opinions of the Court, 15 concurring opinions and 73 dissenting opinions.

3.2 Appellate Divisions of the Supreme Court

The Appellate Divisions provide the first level of appeal from superior trial courts in addition to performing the other functions mentioned in Chapter 1. In 1979, 8,418 records on appeal were filed in the four Appellate Divisions, as shown in Table 10. There were 9,065 dispositions of judgments or orders appealed from, and the Appellate Divisions heard 4,258 oral arguments.

Of the 9,065 dispositions, 6,074 (67%) were affirmances, 765 (8%) were modifications, 1,351 (15%) were reversals without a new trial, and 136 (2%) were orders of new trials, as shown in Table 11.

In disposing of the 9,065 judgments or orders appealed from, the four Appellate Divisions wrote 561 full opinions, 89 ***per curiam*** opinions and 4,132 memorandum opinions, as shown in Table 12.

3.3 Appellate Terms of the Supreme Court

The Appellate Terms of the Supreme Court received 2,035 appeals and disposed of 1,499 in 1979, as shown in Table 13. The First and Second Departments together pondered 1,107 decisions, filed 1,032 ***per curiam*** opinions and wrote 31 memoranda (not filed). 3,196 motions were heard or submitted.

3.4 Criminal Proceedings

Trial jurisdiction in criminal proceedings is vested in different categories of courts, depending on the type of proceeding. The volumn of the nature of the criminal proceeding in each category is discussed below.

3.4.1 The Supreme Court Within the City of New York

Table 14 presents a summary of the 1979 activities of the Supreme Court in New York City. The entries (except for items 1 and 9 through 12) are in terms of defendant-indictments. As such, each defendant is considered separately for each indictment with which he or she is charged. For example, if two indictments apply to the same defendant, each is counted separately, and two dispositions are recorded; if one indictment applies to two defendants, the action concerning each defendant is counted, and two dispositions are recorded. In 1979, a total of 16,454 defendant-indictments were filed in Supreme Court in New York City. During the previous 12-month period, 15,883 defendant-indictments were filed.

Dispositions in 1979 totaled 17,014. Table 15 shows the number and percent of defendant-indictments disposed of by nature of disposition for each county in New York City. The proportion of dispositions by trial increased from 11.7 percent in calendar year 1978 to 13.2 percent in 1979.

A total of 8,918 felony defendants were awaiting disposition of their cases in Supreme Court in New York City at the end of 1979. This compares with 8,608 pending at the end of 1978. A breakdown of these defendants by county is presented in Table 16.

The New York City Department of Correction reports that, at the end of December 1979, a total of 3,111 defen-

dants were being detained while awaiting disposition or sentencing in Supreme Court in New York City. Of these, 79 had been detained for over one year. This is a decrease from 82 defendants reported as detained for more than one year on December 31, 1978. Table 17 shows the number and percent detained by county.

3.4.2 The Supreme Court and County Courts Outside the City of New York

Although the Supreme Court and County Courts outside the City of New York possess civil and criminal jurisdiction, the caseload of the Supreme Court is largely civil and that of the County Courts is largely criminal. The defendant-indictments reported here were returned mainly by grand juries of the Supreme Court. All other criminal proceedings occurred principally in the County Courts.

There were 14,352 defendant-indictments filed outside of New York City in 1979. Table 18 presents a summary of defendant-indictments, arraignments, dispositions, and sentences for this period by county, district and judicial department.

Table 19 shows the number and percent of defendant-indictments disposed of by nature of disposition and comparable 1978 figures. There were 16,494 dispositions in 1979. The table shows that 15.0 percent of dispositions were by dismissal, 8.1 percent by trial, and 76.9 percent by plea.

As reported by local detention facilities, 966 detainees were awaiting action in Supreme Court and County Courts outside the City of New York at the end of December 31, 1979. Of these, 14 had been detained over one year. This compares with 1,094 detainees awaiting action in the same courts at the end of 1978 — 20 for over one year. Table 20 shows the number of defendants detained by judicial district.

3.4.3 The Criminal Court of the City of New York

With an authorized strength of 98 judges, the Criminal Court of the City of New York has jursidiction over misdemeanors and lesser criminal offenses. It is also the arraignment court for felonies.

Table 21 shows the breakdown of 594,541 summons cases filed in 1979 and lists them with the 1978 figures.

Table 22 lists the fines collected in 1978 and 1979 in both arrest and summons cases.

Table 23 summarizes the court's activities in arrest cases for 1979. The total number of filings during 1979 was 203,367, compared with 224,109 filings in 1978.

There were 200,456 cases disposed of in 1979, compared with 218,623 dispositions in 1978. Table 24 presents a listing of dispositions by number and percent by county for these two years.

According to the New York City Department of Correction, 1,214 defendants were detained while awaiting action in Criminal Court of the City of New York at the end of 1979. This included 260 defendants detained over 30 days. The comparable figure for the end of 1978 was 322 defendants. Table 25 lists the number of detainees at the end of 1978 and 1979 by stage of processing.

3.4.4 The District Courts and the Courts in Cities Outside the City of New York

There were 140,706 criminal and quasi-criminal cases (defendants) disposed of in the District Courts and the courts in cities outside the City of New York in 1979. 47 percent of these dispositions occurred in the 10th district in which the two District Courts are located. Table 26 lists arraignments and dispositions by stage and by district, department and region.

During 1979, there were 337,773 traffic cases disposed of in the District Courts and the courts in cities outside the City of New York. Slightly less than 50 percent of these dispositions occurred in the 10th district in which the two District Courts are located. Table 27 lists traffic dispositions by stage and by district, department and region.

3.4.5 Town Courts and Village Courts

Town Courts and Village Courts disposed of 1,905,928 criminal and traffic cases in 1977 (latest available figures) compared with 1,767,156 cases disposed of in 1976. These two years are shown in Table 28. The data is provided by the Department of Audit and Control: Bureau of Justice Court Funds.

3.5 Civil Actions and Procedures

3.5.1 Supreme Court

On June 26, 1978, the Office of Court Administration initiated a revised civil activity reporting system to report civil actions and proceedings in the courts of superior jurisdiction. In the past, uncontested matrimonials were included in the counts of actions received, disposed and pending. As a result of the revised reporting system, uncontested matrimonials are counted at the time of disposition only, therefore, they are not included within the Supreme Court tables that follow.

3.5.1.1 Trends

The volume of actions received and actions disposed (other than uncontested matrimonials) in the civil terms of Supreme Court increased in 1979. Because of the large increase in dispositions there was a three percent decrease of pending civil actions in the Supreme Court at the end of 1979.

3.5.1.2 Actions Received

In 1979, 62,697 civil actions (other than uncontested matrimonials) were received in Supreme Court, as shown in Table 29. This represents an increase of 897, or about one and one-half percent, compared to 1978. The slight percent-

age decrease (2.6%) in New York City was offset by the increase (4.5%) outside New York City.

3.5.1.3 Actions Disposed of

In 1979, the Supreme Court disposed of more actions than the year before. The 63,625 (other than uncontested matrimonials) actions disposed of, as shown in Table 30, represent an increase of 5.5 percent over the total in 1978. As previously mentioned, the Office of Court Administration now counts uncontested matrimonials only at the time of disposition. In 1979, there were a total of 55,308 of these actions disposed of, representing an increase of 773 cases, or 1.4 percent over the total for 1978. Of these 55,308 uncontested matrimonial cases disposed of 25,731 cases were in New York City and 29,577 cases were Upstate.

Table 31 shows dispositions by stage and nature.

3.5.1.4 Projected Average Age of Actions at Disposition

Beginning with the Twentieth Annual Report, which covered judicial year 1973-74, the Office of Court Administration departed from previous practice of measuring delay in disposing of civil cases prospectively in terms of the projected average age. This age is the statistical calculation of the average number of months that an action for which a note of issue is filed on December 31, 1979, can be expected to be pending before disposition.*

Table 32 shows the projected average age at disposition of a non-matrimonial action filed in the Supreme Court on December 31, 1979, is about 11 months, a reduction of 3 months from the 1978 figure. It is 12 months in New York City and 11 months in counties outside the City of New York with a range of 2 to 20 months for individual counties, as shown in the table.

3.5.1.5 Pending Caseload

Table 32 shows statistics for the ending civil caseloads in Supreme Court in 1979. Statewide the pending caseload decreased in 1979 by 3.1 percent over 1978.

An increase in pending caseload was recorded in the Second Judicial Department (3.6%) while the First, Third and Fourth Departments showed decreases of 2.3 percent, 5.4 percent and 21.1 percent respectively.

3.5.2 County Courts

3.5.2.1 Trends

The volume of civil actions increased while the actions disposed of and the cases pending declined in 1979 over 1978, as shown in Figure 6.

3.5.2.2 Actions Received

The 3,154 actions received in County Court statewide in 1979 as shown in Table 33, represented an increase of 9.9 percent over 1978.

3.5.2.3 Actions Disposed of

The 3,557 dispositions recorded statewide, as shown in Table 34, represented a decrease of about 2 percent under 1978.

Table 35 shows the actions disposed of by stage and nature.

3.5.2.4 Projected Average Age of Actions at Disposition

Table 36 shows that the projected average age of a case at disposition in the County Courts is 7 months. The projected average age is particularly high in the Fifth District (42 months), and notably low in the Sixth District (4 months). Among individual counties, the projected average age varies greatly, but it should be noted that, to some degree, this wide variation is due to the small number of cases involved in the calculation for a particular county.

3.5.2.5 Pending Caseload

As shown in Table 36, the pending caseload in the County Courts statewide as of the end of 1979 was 1,903 cases — a decrease of 347, or 15.4 percent, from the end of 1978.

3.5.3 The Civil Court of the City of New York

3.5.3.1 Trends

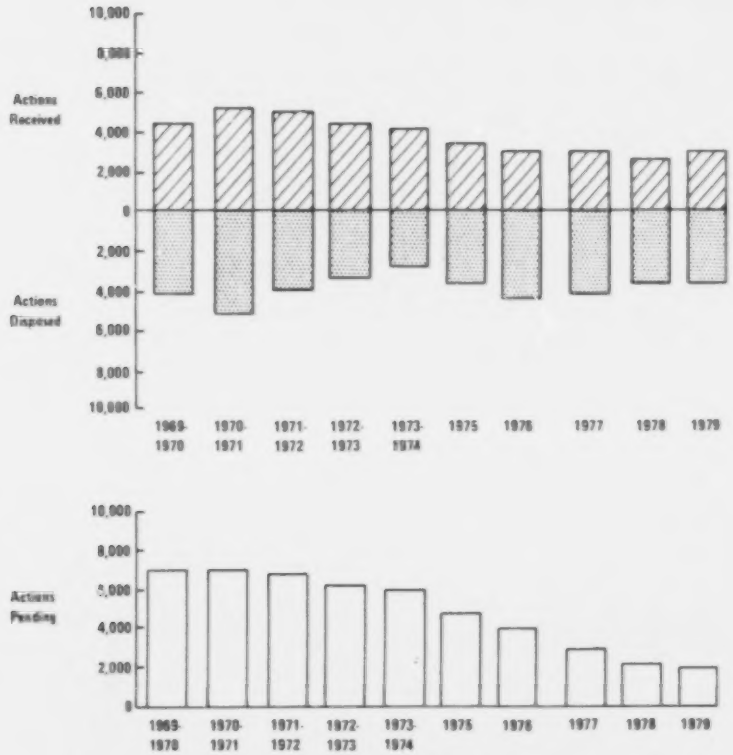
The volume of actions received and actions disposed of in the Civil Court of the City of New York continued to decrease in 1979. The number of pending actions also decreased (by 7 percent) as shown in Figure 7.

The trend of the increasing number of summary proceedings received and disposed of over the previous ten years was reversed in 1977, but that reversal was short lived. 1978 and 1979 saw the resumption of the increasing trend in the number of summary proceedings received and disposed of.

Although the number of summary proceedings pending appears to have increased in 1975 through 1977 (Fig. 8), it should be noted that through the judicial year 1973-74, the pending figure was measured as of June 30, while for 1975 through 1979, the measuring date was December 31. Court caseloads of all types are usually at their lowest in June, just before the summer vacation period. During 1975 the pending caseload of summary proceedings actually decreased from 4,042 on January 1 to 3,125 on December 31. Since then, however, the number of pending cases has increased, so that the 5,160 cases on December 31, 1977, represented an increase of 1,030 cases, or 25 percent.

*Measuring delay from the filing of a note of issue ignores many proceedings which take place before filing, such as the issuance of summonses and complaints, pleadings, discovery proceedings, pretrial conferences and negotiations. However, the present reporting system begins with the filing of the note because it is the first milestone at which a civil case can be said to be pending before the court.

Figure 6
THE COUNTY COURTS
OUTSIDE THE CITY OF NEW YORK—CIVIL TERMS
Actions Received, Actions Disposed, Actions Pending
*Last Ten Years**



*The bars for 1975, 1976, 1977, 1978 and 1979 are based on the calendar year; the bars for the earlier years are based on judicial years, beginning on July 1 of one year and ending on June 30 of the following year.

For the first time since the inception of calendar year reporting, the caseload of pending summary proceedings decreased in 1978, but only for that year. There were 4,665 cases pending at the end of 1979, an increase of 1,598 cases or 52 percent.

3.5.3.2 Actions and Special Proceedings

3.5.3.2.1 Actions and Special Proceedings Received

In 1979, the number of actions and special proceedings received was 54,666, a decrease of 5,686, or about 9 percent, from 1978. Increases in the Bronx and Richmond of almost 14 and 15 percent respectively were offset by decreases of approximately 15 percent in New York and Queens and 5 percent in Kings.

About 43.1 percent of these actions were received in the Housing Part, as shown in Tables 37 and 40.

3.5.3.2.2 Actions and Special Proceedings Disposed of

There were 56,138 actions disposed of in 1979, down from 57,326 in 1978. This is a decrease of 2 percent, or 1,188 dispositions, from 1978. Four counties registered decreases from .2 percent in the Bronx to a high of 3.9 percent in New York. The only county that showed an increase was Kings where 3.9 percent more cases were disposed of over 1978. The figures for cases disposed are set forth in Tables 38, 39 and 40.

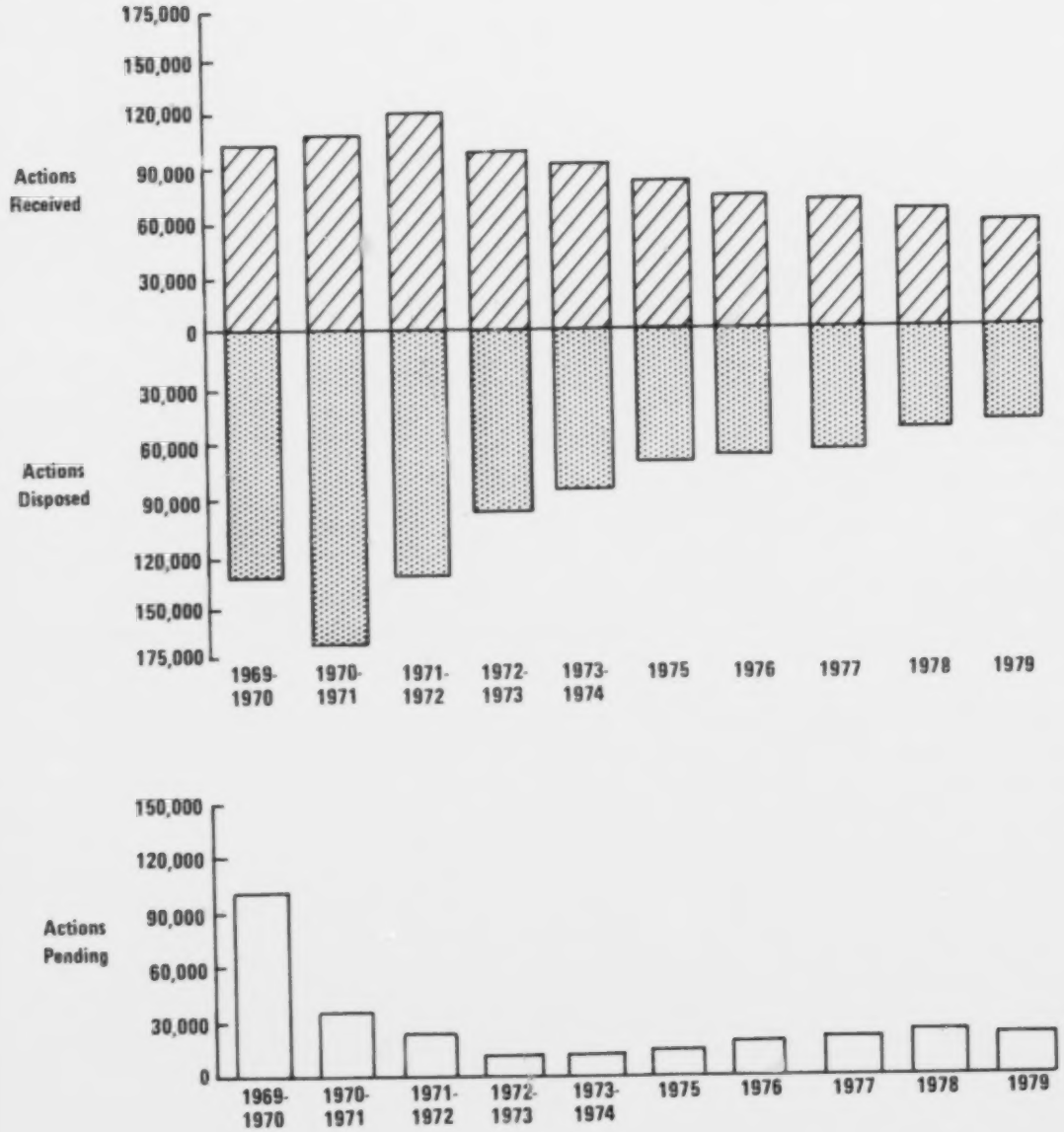
3.5.3.2.3 Projected Average Age of Action at Disposition

Table 40 reflects a projected average age of 4.4 months citywide, an increase of .2 of a month over 1978.

3.5.3.2.4 Pending Caseload

As shown in Table 40, the pending caseload decreased by 1,472 actions in 1979. Decreases in pending caseloads in Queens and New York, 24 percent and 16 percent respectively, did not offset the increases in Richmond of 29 percent, in the Bronx of 22 percent, and in Kings of 12 percent, resulting in a net decrease of 7 percent.

Figure 7
THE CIVIL COURT OF THE CITY OF NEW YORK
Actions Received, Actions Disposed, Actions Pending [1]
*Last Ten Years**



[1] Excludes Bronx compulsory arbitration cases discussed in Chapter 4.

*The bars for 1975, 1976, 1977, 1978 and 1979 are based on the calendar year; the bars for the earlier years are based on judicial years, beginning on July 1 of one year and ending on June 30 of the following year.

3.5.3.3 Summary Proceedings

Figure 8 depicts the reversal in 1977 of the upward trend of the previous eight years in summary proceedings received and disposed of. However, in 1978 and in 1979 the upward trend in volume resumed.

3.5.3.3.1 Summary Proceedings Received

Most of these proceedings are landlord and tenant proceedings for nonpayment of rent. The Office of Court Administration counts a summary proceeding as received only if an answer is filed since it is placed on a calendar only after such a filing.

In 1979 there were 416,244 petitions filed. Of the third of these where no answers were filed, 38 percent resulted in a default judgment being entered and a warrant being issued later. The numbers shown in Tables 41 and 44 refer only to those petitions which were placed on a calendar.

There were 86,857 summary proceedings received in 1979, an increase of 12,609, or 17 percent, over the comparable figure for 1978.

3.5.3.3.2 Summary Proceedings Disposed of

As shown in Table 42, a total of 85,259 summary proceedings were disposed of in 1979, up 9,652, or 13 percent, from 1978. Table 43 shows dispositions by stage and nature, while Table 44 shows the breakdown of filings and dispositions by Jury and Non-Jury cases.

3.5.3.3.3 Pending Caseload

During 1979, the pending caseload of summary proceedings increased by 1,598 proceedings, or 52 percent. This is reflected in Table 44.

3.5.3.4 Special Terms

3.5.3.4.1 Special Term Part I

Special Term Part I of the Civil Court of the City of New York deals with contested motions. In 1979, these motions increased by 2,100 or 4 percent as compared with 1978. The greatest numerical increase occurred in the number of motions adjourned, 2,119 or 12 percent, followed by 1,319 or 22 percent of motions denied and 14 percent or 603 motions withdrawn or marked off. Motions granted, the only category of contested motions registering a decrease in 1979 over 1978, went down by 1,941 or 8 percent. This is reflected in Table 45.

3.5.3.4.2 Special Term Part II

Special Term Part II of the Civil Court of the City of New York deals with ex parte orders, as shown in Table 46. The 146,752 ex parte orders reported in 1979 were a decrease of 23,685, or 14 percent under 1978.

3.5.4 The District Courts and the Courts in Cities Outside the City of New York

Table 47 lists the disposition of actions and summary proceedings by nature, number of mistrials and small claims received and disposed of by district and judicial department in these courts. Of the statewide total of 124,823 cases, about 52 percent of actions and summary proceedings dispositions as well as small claims dispositions occurred in the Tenth District, which contains the state's two District Courts.

3.6 The Court of Claims

In 1979, the Court of Claims had 17 authorized judges. 1,150 claims were filed and 2,402 were disposed of. 2,185 of the dispositions were by dismissal and 217 resulted in awards. In addition to the 2,402 claims disposed of, 1,420 motions were decided by the court. The pending caseload at the end of 1979 was 2,898, a decrease of 1,252 or approximately 30.2 percent from the 4,150 cases pending at the end of 1978.

Figure 9 shows the volumes of cases received, cases disposed of and cases pending in the Court of Claims for the last 10 years.

3.7 The Surrogates' Courts

Figure 6 indicates that there has been little increase or decrease in the business of the Surrogates' Courts during the last six years. There were 40,020 petitions to probate wills in 1979 calendar year, a decrease of 1,949 from 1978; 12,811 letters of administration were granted, a decrease of 635 from 1978; orders of adoption decreased by 53, with 3,132 granted in 1979; and there were 10,552 voluntary accountings, a decrease of 132 over the 1978 calendar year. Additional details of the operations of the Surrogates' Courts are given in Table 48.

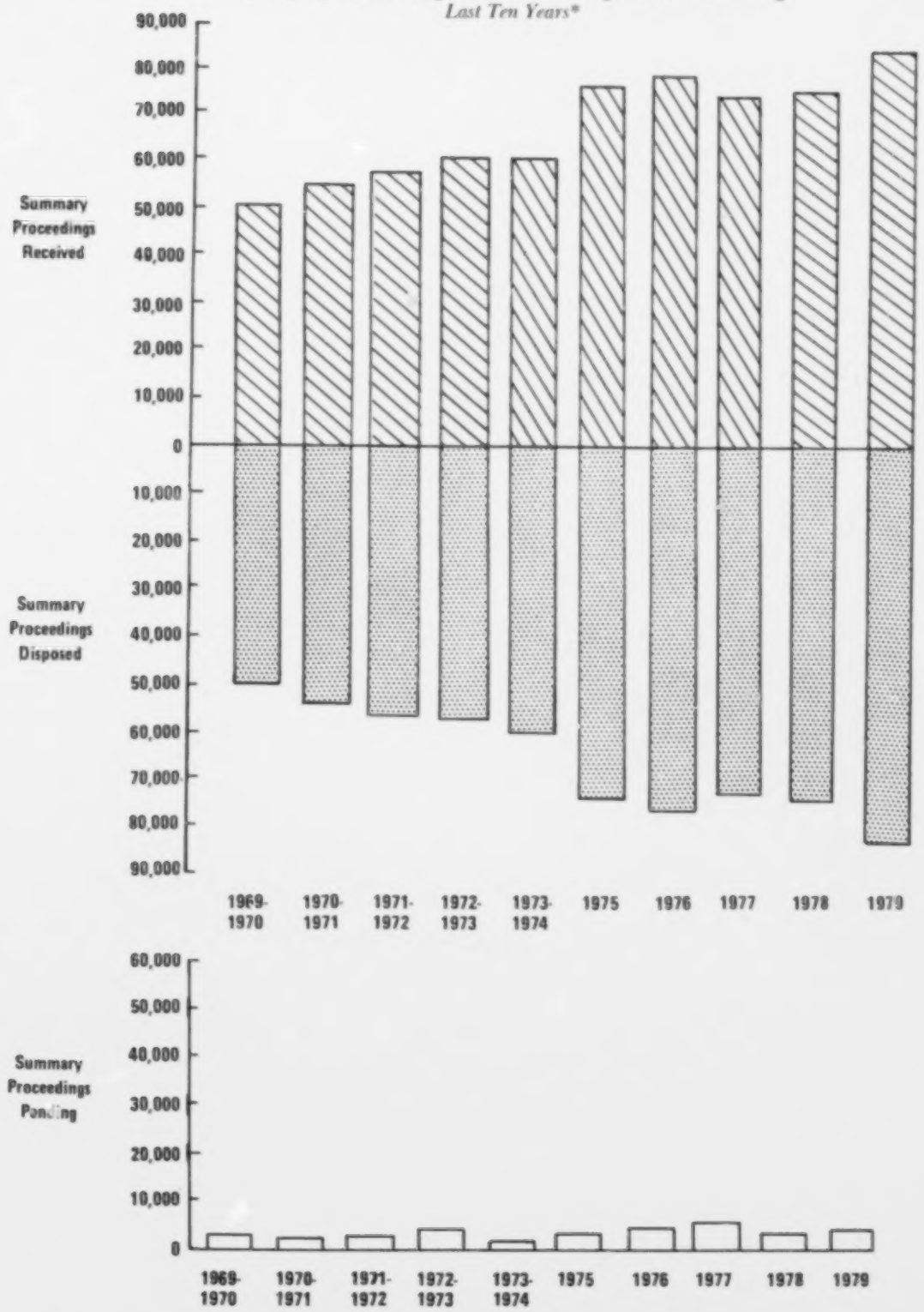
3.8 Family Court

3.8.1 Overview of the Work of the Court

Family Courts in New York State have jurisdiction over matters involving children and families. These include primarily cases of juvenile delinquency, child protection, foster care, minors in need of supervision, adoptions, support of dependent relatives, paternity matters and family offenses.

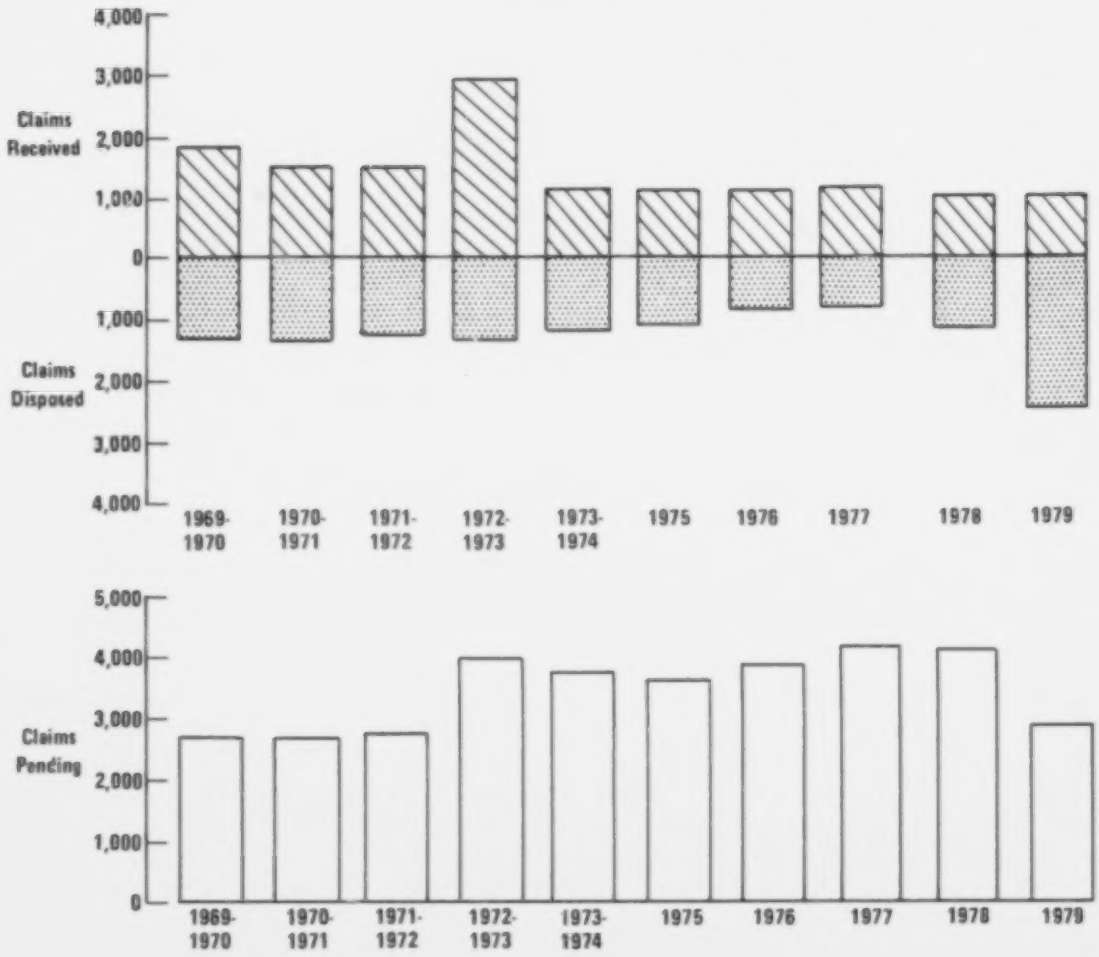
The statistical system for measuring caseload activity in the Family Court dating from the Court's establishment on September 1, 1962, remained in effect through the end of 1974, at which time it was substantially revised. Although the revisions allow the measurement of activity more completely and realistically than before, the data cannot always

Figure 8
THE CIVIL COURT OF THE CITY OF NEW YORK
Summary Proceedings—Received, Disposed and Pending
*Last Ten Years**



*The bars for 1975, 1976, 1977, 1978 and 1979 are based on calendar year; the bars for the earlier years are based on judicial years, beginning on July 1 of one year and ending on June 30 of the following year.

Figure 9
THE COURT OF CLAIMS
Claims Received, Claims Disposed, Claims Pending[1]
Last Ten Years*



[1] Includes newly filed claims; claims held on calendar in which judgments have been entered after order of severance; and claims restored by order of the Court of Appeals, or by order of the Appellate Divisions or by order of the Court of Claims.

*The bars for 1975, 1976, 1977, 1978 and 1979 are based on the calendar years; the bars for the earlier years are based on judicial years, beginning on July 1 of one year and ending on June 30 of the following year.

be related to data collected prior to the revision in 1975. The data collected from the new statistical system is presented in Table 49. This table presents the activity of Family Court in terms of "additions" and "deductions" to the actively pending caseload, by type of proceeding. The column titled "Petitions Added During Period" includes petitions filed, transferred in and referred from other courts, as well as any warrant returned during the year. In like manner, the column titled "Petitions Deducted During Period" refers to all types of court dispositions, including petitions transferred out and proceedings in which warrants were issued.

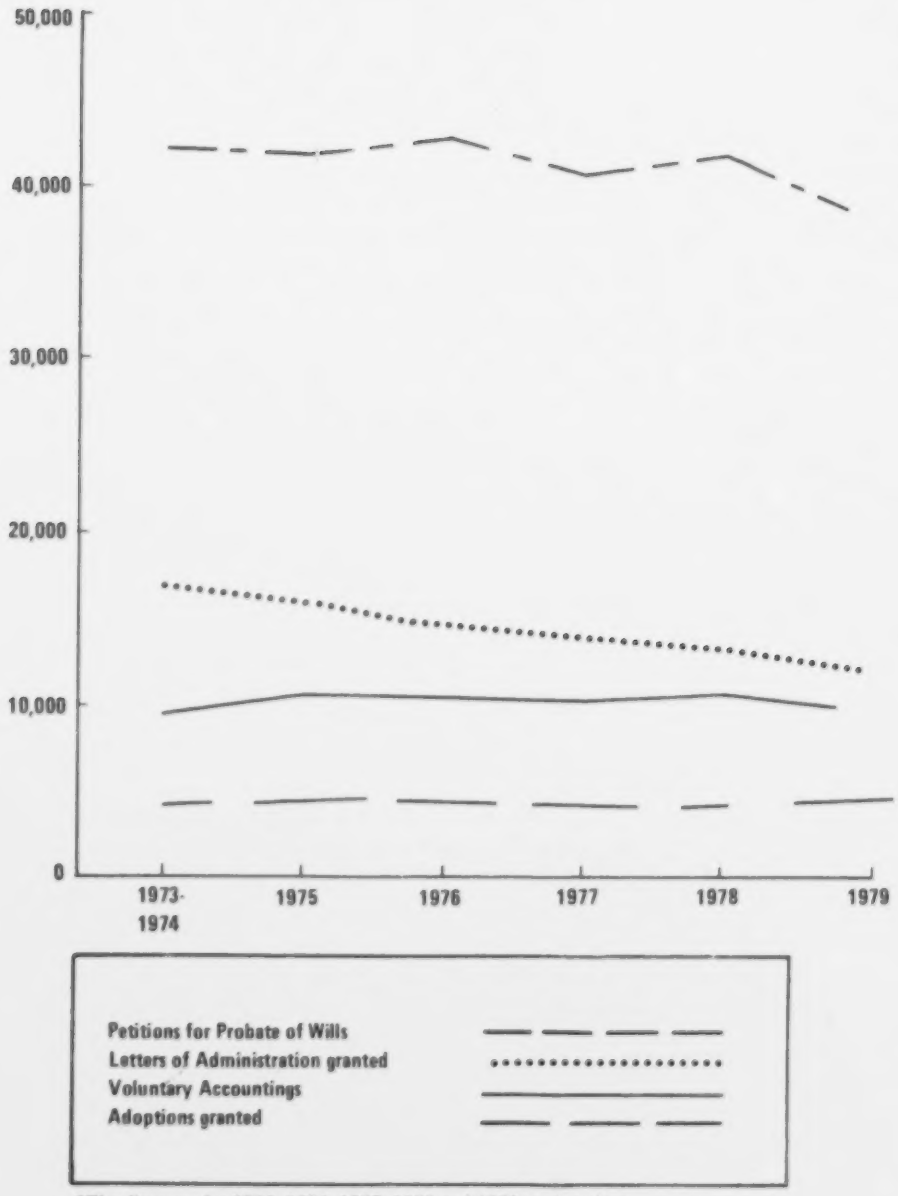
The Child Protective, Juvenile Delinquency, PINS and Family Offense disposition statistics (Tables 50 through 86) can be related to the material presented in all previous annual reports.

3.8.2 Child Protective Proceedings Involving Child Abuse

There were 4,962 original child protective petitions disposed of in New York State in 1979.

As shown in Table 50, in 7 percent of the original child protective cases disposed of during 1979, there was a finding

Figure 10
THE SURROGATE'S COURT
Selected Items
*Last Six Years**



*The diagrams for 1975, 1976, 1977, 1978 and 1979 are based on the calendar years; the diagram for 1973-1974 is based on a judicial year beginning on July 1, 1973 and ending on June 30, 1974.

that the child was abused (but not neglected). In 48 percent of the cases, there was a finding that the child was neglected (but not abused). In 3 percent of the cases, the child was found to be both abused and neglected, while in 42 percent of the cases the child was found to be neither abused nor neglected.

Although the number of dispositions for child abuse was small, there is great interest in these most serious cases. Hence, the Legislature has directed the Judicial Conference to collect and publish the variety of information on child abuse discussed below.

3.8.2.1 Disposition of Child Abuse Cases

1,196 original child protective proceedings involving child abuse were disposed of during 1979. A total of 577, or 48 percent, of these petitions were disposed of in New York City; 619, or 52 percent, of the petitions were disposed of in courts outside New York City.

3.8.2.2 Age of Child

As shown in Tables 51 and 52, statistics indicate that a higher percentage of young girls were the subject of original abuse cases disposed of during 1979 than young boys. This trend was also true in the past. 48 percent of the children in child abuse cases in 1979 were under eight years of age.

3.8.2.3 Reasons for Petitions

Physical abuse accounted for 64 percent of the reasons for child abuse petitions in New York City and 43 percent of the reasons for petitions in counties outside New York City, as shown in Tables 53 and 54. The second most common reason for child abuse petitions statewide was sex offense against child. However, this accounted for only 10 percent of the reasons for child abuse petitions in New York City, while in counties outside New York City, sex offense against child accounted for 48 percent of the reasons for petition.

3.8.2.4 Petitioners

As reported in previous years, the major sources of original petitions in child protective proceedings disposed of in 1979 were public social services agencies, which brought 90 percent of all petitions disposed of in this period. Public social services agencies were petitioners in a higher percentage of cases in counties outside New York City than in New York City (95% to 85%).

3.8.2.5 Temporary Removal

Of the 1,196 children who were subjects of original child protective petitions involving child abuse disposed of during 1979, 513, or 43 percent, were not removed from their homes, as shown in Tables 57 and 58, and 682 were. 45 or 4 percent were removed (only) before the filing of a petition because of emergency circumstances. 485 children, or 40 percent, were removed from their homes (only) after the filing of a petition, and 152, or 13 percent, both before and after.

On a statewide basis, temporary removal of a child after petition was terminated within 30 days in 25 percent of such cases disposed of during 1979. In 55 percent of the cases temporary removal ended within 90 days. The duration of temporary removal was similar for boys and for girls.

As shown in Tables 57 and 58 there was little variation in the duration of temporary removal between New York City and the other counties of the State for original child protective proceedings involving child abuse disposed of during 1979. 25 percent of temporary removals after petition were terminated within 30 days in counties outside New York City, compared with 24 percent in New York City.

Some of the reasons for the durations of temporary removal may be found in the statistics on the times between the filing of a petition and the initial fact-finding hearing and between the initial fact-finding hearing and the dispositional hearing, as discussed below.

3.8.2.6 Length of Time Between Filing of Petition and Initial Fact-Finding Hearing

A fact-finding hearing occurred in about 81 percent of all child abuse cases disposed of in 1979, as shown in Tables 59 and 60. In New York City 71 percent of the cases had such a hearing, compared with 89 percent of the cases in counties outside New York City.

The fact-finding hearing was held within 30 days of the filing of a petition in 38 percent of the child abuse cases with a hearing. However, in New York City only about 17 percent of the cases had the fact-finding hearing within 30 days, as contrasted with 55 percent within 30 days in counties outside New York City.

In 5 percent of the cases with a hearing, the hearing was not held until more than one year after filing.

3.8.2.7 Number of Adjournments Between Filing of Petition and Initial Fact-Finding Hearing

One reason for the delay in reaching a fact-finding hearing in 1979 was that 65 percent of all child abuse cases with a fact-finding hearing had at least one adjournment before the hearing, as shown in Tables 61 and 62. Six percent had nine or more adjournments.

83 percent of all New York City cases had one or more adjournments, and 11 percent had nine or more adjournments. This contrasts with 52 percent of the cases in counties outside New York City with one or more adjournments and 3 percent with nine or more adjournments.

3.8.2.8 Length of Time Between Initial Fact-Finding Hearing and Dispositional Hearing

33 percent of the cases of child abuse disposed of during 1979 had a delay of 30 days or less between the initial fact-finding and the dispositional hearings, as shown in Tables 63 and 64. However, only 19 percent of the child abuse cases in New York City experienced such delay, as compared with 46 percent of the cases in counties outside New York City.

3.8.2.9 Number of Adjournments Between Initial Fact-Finding Hearing and Dispositional Hearing

Again, adjournments are one reason for delay in reaching a disposition after a fact-finding hearing has been held, as shown in Tables 65 and 66. 57 percent of all child abuse cases disposed of during 1979 had one or more adjournments between the initial fact-finding and dispositional hearings.

3.8.2.10 Findings

Of the 1,196 original child protective proceedings involving child abuse disposed of in 1979, 891 started with allegations of abuse only, as shown in Table 67. Of these petitions alleging abuse, 33 percent resulted in a finding of abuse, 29 percent in a finding of neglect, 4 percent in a finding of both abuse and neglect, and 34 percent in a finding of neither. 47 percent of these findings were based on the establishment of facts sufficient to sustain the petition, and 53 percent were based on the consent of all parties.

249 of the 1,196 original child protective petitions involving child abuse disposed of during 1979 started with allegations of both abuse and neglect, as shown in Table 68. In 20 percent of these cases, the child was found to be both abused and neglected, and in 13 percent the child was found to be abused. In 42 percent of these cases the child was found to be neglected, and in 25 percent, the child was found to be neither abused nor neglected. 57 percent of the findings cited above were based on the establishment of facts sufficient to sustain the petition, and 43 percent were based on the consent of all parties.

A total of 3,822 petitions alleging neglect resulted in only 13 findings of child abuse and 43 findings of both abuse and neglect, as shown in Table 69.

3.8.2.11 Disposition

36 percent of the 1,196 child protective petitions involving child abuse were either withdrawn, dismissed, or suspended during 1979, as shown in Tables 70 and 71. 32 percent resulted in placement during this time period. No abuse cases resulted in a disposition of probation. 10 percent resulted in an order of protection.

3.8.2.12 Age of Disposed of Cases

An indication of the age of child abuse cases disposed of during 1979 is given in Table 72. It will be noted that 53 percent were filed before 1979. In New York City, 60 percent were filed before 1979, compared with 46 percent in counties outside New York City.

3.8.2.13 Use of Child Abuse Part

Of the 1,140 cases in which child abuse was alleged in the original petition, 58 percent were tried in a special child abuse part in a Family Court, as shown in Table 73.

3.8.3 Persons-In-Need-Of-Supervision Proceedings

During 1979, 10,018 original proceedings involving persons in need of supervision were disposed of in the Family Courts. Of those dispositions, 3,072 were made in New York City and 6,946 in other counties of the State.

3.8.3.1 Detention

As shown in Tables 74 and 75, 18 percent of the alleged persons in need of supervision were detained during Family Court original proceedings disposed of during 1979. 18 respondents in supervision proceedings, or less than one percent were detained (only) before the filing of a petition. About 17 percent (1,683) of all respondents were detained (only) after the filing of a supervision petition. 66 were detained both before and after the filing of the petition.

On a statewide basis, post-petition detention in supervision cases was terminated within 30 days for 50 percent of those detained, as shown in Tables 74 and 75. It was terminated within 90 days for 84 percent of the detainees. However, the 56 percent of respondents from counties outside New York City whose detention was terminated in 30 days or less was 12 percentage points higher than the percentage of respondents from New York City (44%) whose detention was terminated in 30 days or less.

3.8.3.2 Adjudication and Disposition

In 5,952, or 60 percent of the original supervision petitions disposed of during 1979, there was no adjudication that the person was in need of supervision, as shown in Tables 76 and 77. In 330, or 3 percent, of the cases an adjudication was made, but judgment was suspended or the respondent was discharged with a warning. 2,435, or 24 percent, of the supervision proceedings culminated in an order of probation. Proceedings that resulted in some form of placement occurred in 1,221, or 12 percent, of the cases.

A slightly higher percentage of cases involving girls resulted in no adjudication that the person was in need of supervision than cases involving boys. A higher percentage of cases in which the judgment was suspended or the respondent discharged with a warning occurred in counties outside the City of New York (5%) than in New York City (1%). Probation also was used in a greater percentage of cases in counties outside the City of New York (33%) than in New York City (5%).

3.8.4 Juvenile Delinquency Proceedings

During 1979, 17,880 original juvenile delinquency cases were disposed of in the Family Courts. As in previous years, a much higher percentage of the delinquency proceedings involved boys (88%) than girls (12%).

3.8.4.1 Reasons for Petition

The distribution of the reasons reported for delinquency petitions during 1979, shown in Table 78, was substantially the same as in previous years. Allegations of robbery were more frequent, however, in New York City than outside New York City, and allegations of burglary and larceny (not of an auto) were the basis of a greater percentage of delinquency petitions in counties outside New York City than in the City.

3.8.4.2 Detention

As shown in Tables 79 and 80, 53 (or 1%) of the alleged

delinquents were detained (only) before the filing of a petition in original cases disposed of during 1979.

Fifteen percent (2,659) of the children who were respondents in original delinquency proceedings disposed of during 1979 were detained (only) after the filing of a petition, while another 159 (1%) were detained both before and after.

In 70 percent of the post-petition detentions, the detention was terminated within 30 days as shown in Tables 79 and 80. Detention was terminated within 90 days in 94 percent of the cases.

3.8.4.3 Adjudication and Disposition

In 11,811, or 67 percent, of the original juvenile delinquency petitions disposed of during 1979, there was no adjudication of delinquency, as shown in Tables 81 and 82. In 726, or 4 percent, of the cases an adjudication was made, but judgment was suspended or the respondent was discharged with a warning. 19 percent, or 3,359, of the proceedings culminated in an order of probation. Proceedings that resulted in some form of placement occurred in 1,759, or 10 percent, of the cases. 3 percent, or 553 cases, resulted in a discharge of the delinquency petition to another petition or in a discharge to a mental hygiene institution or school for defectives.

A higher percentage of cases involving girls (75%) than boys (66%) resulted in no adjudication of delinquency. A slightly higher percentage of cases in which the judgment was suspended or the respondent discharged with a warning occurred in counties outside of the City of New York (5%) than in New York City (2%). Probation also was used in a greater percentage of cases in counties outside the City of New York (21%) than in New York City (11%).

3.8.5 Family Offense Proceedings

Chapter 449 of the laws of 1977, effective September 1, 1977, prohibited the filing of a subsequent Family Offense proceeding in an alternative court for the same offense once a choice of forum had been made by the petitioner/complainant.

In 1979, a total of 15,902 family offense petitions were disposed of in the Family Courts of New York State.

3.8.5.1 Allegations of Petitions

The distribution of allegations reported for family offense petitions disposed of in Family Courts in 1979 is shown in Table 83. Allegations of assault (44%) and attempted assault (2%) accounted for 46 percent of all family offense allegations during the reporting period. Harassment was alleged in 26 percent and disorderly conduct in 19 percent of the petitions. The percentage of petitions alleging assault was slightly higher in New York City than in other counties outside of New York City (45% to 44%).

3.8.5.2 Petitioners

Of the total family offense petitions disposed of in Family Court in 1979, wives were petitioners in 79 percent of the cases as shown in Table 84. Other sources of petitions were husbands (5%) and mothers (8%). Outside of New York City wives were petitioners in 79 percent of the cases and in 78 percent of the cases within the city.

3.8.5.3 Respondents

Statewide, husbands were respondents in 78 percent of the Family Court cases, a son or daughter in 11 percent and a wife in 5 percent as shown in Table 84. In counties outside of New York City husbands were respondents in 78 percent of the cases while in New York City they were respondents in 78 percent of the cases.

3.8.5.4 Dispositions

Of the 15,902 petitions disposed of in Family Courts in 1979, 59 percent were either dismissed (40%) or withdrawn (19%), while 39 percent resulted in the issuance of a final Order of Protection, as shown in Table 85.

Table 7

THE COURT OF APPEALS
Matters Submitted and Decided

January 1, 1979 through December 30, 1979

Applications Decided (C.P.L. 460.20 (30b)[1]	1,627
Records on Appeal Filed	645
Motions Decided	1,252
Oral Arguments[2]	607
Appeals Decided	570

[1] Applications for leave to appeal in criminal cases; 97 of the 1,627 were granted. The total number of criminal applications assigned during the year 1979 was 1,740.

[2] Total includes appeals submitted.

Table 8

THE COURT OF APPEALS
Appeals Decided by Nature and Jurisdiction

January 1, 1979 through December 30, 1979

Civil Cases

Basis of Jurisdiction	Nature of Decision					Total
	Dismissal	Affirmance	Modification	Reversal	Other	
Reversal, Modification, Dissent in Appellate Division	15	200	16	60	0	291
Constitutional Question	7	7	2	3	0	19
Stipulation for Judgement Absolute	0	0	0	0	0	0
Permission of Appellate Division	1	17	5	12	0	35
Permission of Court of Appeals	1	25	5	14	0	45
Other	0	19	1	13	0	33
Totals	24	268	29	102	0	423

Criminal Cases

Basis of Jurisdiction	Nature of Decision					Total
	Dismissal	Affirmance	Modification	Reversal	Other	
Permission of Justice of Appellate Division	4	36	3	15	0	58
Permission of Judge of Court of Appeals	0	46	3	40	0	89
Other	0	0	0	0	0	0
Totals	4	82	6	55	0	147

All Cases

Basis of Jurisdiction	Nature of Decision					Total
	Dismissal	Affirmance	Modification	Reversal	Other	
Reversal, Modification, Dissent in Appellate Division	15	200	16	60	0	291
Constitutional Question	7	7	2	3	0	19
Stipulation for Judgement Absolute	0	0	0	0	0	0
Permission of Appellate Division or Justice thereof	5	53	8	27	0	93
Permission of Court of Appeals or Judge thereof	1	71	8	54	0	134
Other	0	19	1	13	0	33
Totals	28	350	35	157	0	570

Table 9

THE COURT OF APPEALS
Written Opinions by Type and by Author

January 1, 1979 through December 30, 1979

Author	Type of Opinions			
	Majority Opinions	Concurrences	Dissents	Total
Cooke	25	2	5	32
Jasen	24	0	13	37
Gabrielli	21	2	11	34
Jones	21	4	13	38
Wachtler	20	2	5	27
Fuchsberg	35	3	4	42
Meyer	17	2	12	31
Per Curiam	21	0	0	21
Memorandum	240	0	0	240
Total	424	15	73	512

Table 10

APPELLATE DIVISIONS OF THE SUPREME COURT
Matters Submitted and Decided and General Information on Proceedings by Judicial Department

January 1, 1979 through December 30, 1979

Department	Records on Appeal Filed	Motions Decided	Oral Arguments	Dispositions of Judgments or Orders Appealed from[1]	Admissions To Bar		Attorney Disciplinary Proceedings					
					Men	Women	Charges Dismissed	Censures	Suspensions	Struck from Roll	Disbarments	Reinstatements
1st Dept.	2,637	4,994	1,111	3,079	1,047	506	0	4	15	21	1	9
2nd Dept.	3,133	8,089	1,342	3,178	1,309	410	2	13	9	16	9	8
3rd Dept.	1,548	2,202	854	1,676	260	81	1	3	6	1	1	7
4th Dept.	1,099	2,142	951	1,132	342	88	2	1	9	1	1	2
State Total	8,418	17,427	4,258	9,065	2,958	1,085	5	21	39	39	12	26

[1] Includes Articles 78 and original proceedings; also includes appeals dismissed or withdrawn before arguments or submission.

Table 11

APPELLATE DIVISIONS OF THE SUPREME COURT
Dispositions by Judgments or Orders by Nature and by Judicial Department

January 1, 1979 through December 30, 1979

Departments	Nature of Disposition						Total Disposition of Judgments or Orders Appealed from[a]
	Dismissals	Affirmances	Modifications	New Trials	Reversals Not Including New Trials	Other	
1st Dept.	179	2,069	242	49	341	199	3,079
2nd Dept.	223	1,904	328	75	622	26	3,178
3rd Dept.	20	1,350	96	3	183	21	1,675
4th Dept.	39	751	99	9	205	29	1,132
Total State	461	6,074	765	136	1,351	275	9,065

[a]Includes Article 78 and original proceedings; also includes appeals dismissed or withdrawn before argument or submission.

Table 12

APPELLATE DIVISIONS OF THE SUPREME COURT
Opinions by Type and by Judicial Department

January 1, 1979 through December 30, 1979

Department	Type of Opinion[1]		
	Full Opinion	Per Curiams	Memo Opinion
1st Dept.	196	27	867
2nd Dept	94	50	1,371
3rd Dept.	153	5	1,430
4th Dept.	118	7	464
Total	561	89	4,132

[1]Concurring and dissenting opinions are not included.

Table 13

APPELLATE TERMS OF THE SUPREME COURT
Activity of the Court by Judicial Department

January 1, 1979 through December 30, 1979

Activity	First Department	Second Department	Total
1. Total appeals received[1]	520	1,515	2,035
a. County Courts	0	37	37
b. The Civil Court of the City of New York	427	378	805
c. The Criminal Court of the City of New York	93	214	307
d. The District Courts	0	490	490
e. Courts in cities outside New York City	0	113	113
f. Town Courts & Village Courts	0	283	283
2. Motions heard or submitted	1,439	1,757	3,196
3. Total appeals disposed of	477	1,022	1,499
a. Discontinued	27	6	33
b. Dismissed on calendar call under Rule 3 or 8 (civil)	12	299	311
c. Dismissed on calendar call under C.P.L. 460.70 (criminal)	1	46	47
d. Remitted	0	1	1
e. Decided after argument or submission	437	670	1,107
4. Total decisions rendered	473	670	1,107
a. Dismissed, discontinued, withdrawn or remanded	10	47	57
b. Affirmed	268	327	595
c. Modified	45	38	83
d. Reversed	114	258	372
5. Opinions filed	0	0	0
6. Per curiam opinions	409	623	1,032
7. Memoranda written, not filed	28	3	31

[1] Notices of appeal dismissed on calendar call C.P.L. 460.70 (Criminal): 310 in First Department and 371 in the Second Department.

Table 14

THE SUPREME COURT WITHIN THE CITY OF NEW YORK—CRIMINAL TERMS
Activity of the Court by County

January 1, 1979 through December 30, 1979

Activity	New York	Bronx	Kings	Queens	Richmond	Total N.Y.C.
1. Days sat[1]	8,004	6,316	8,029	3,891	437	26,677
2. Indictments filed	5,821	3,185	4,415	2,550	483	16,454
3. Arraignments	4,432	3,087	4,520	2,493	470	15,002
4. Indictments dismissed by court[2]	1,195	577	722	690	110	3,294
5. Pleas of guilty to felony	3,760	2,224	2,844	1,345	258	10,431
6. Pleas of guilty to misdemeanor	355	70	269	286	57	1,037
7. Convictions	472	333	441	244	35	1,525
8. Acquittals	212	187	167	151	10	727
9. Disagreements	47	27	18	17	1	110
10. Trials (proof completed)	669	494	571	375	42	2,151
11. Defendants tried (proof completed)	770	562	658	426	49	2,465
12. Mistrials	46	35	68	37	4	190
13. Eligible youths adjudicated as youthful offenders	317	294	300	270	81	1,262
14. Sentences imposed	3,860	2,288	3,023	1,540	260	10,971

NOTE: The entries in this table are based on the number of defendant-indictments involved, except for items 1 and 9 through 12. This table includes youthful offender proceedings to conform to the revised Criminal Procedure Law, effective September 1, 1971.

*Criminal terms begin on the first Monday of the calendar year and end on the Sunday before the first Monday of the succeeding calendar year.

[1] Includes days sat by judges temporarily assigned to this Court.

[2] Includes, among others, indictments dismissed in cases initiated prior to the period covered by this table; those indictments dismissed against defendants sentenced on another indictment or disposed of by consolidation; those in which the defendants were civilly committed to the Commissioner of Mental Hygiene or to the Commissioner, Office of Drug Abuse Services; those indictments disposed of by trial order of dismissal; those indictments dismissed upon the filing of a superseding indictment; indictments adjourned in contemplation of dismissal; and those abated by the death of the defendant.

Table 15

THE SUPREME COURT WITHIN THE CITY OF NEW YORK CRIMINAL TERMS
Dispositions, Expressed in Terms of Defendant-Indictments by Nature of Disposition

*1978 and 1979**

Activity	New York		Bronx		Kings		Queens		Richmond		Total N.Y.C.	
	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979
Type of disposition												
Dismissals	1,281	1,195	716	577	731	722	742	690	115	110	3,585	3,294
Pleas of guilty—felony	3,333	3,760	2,107	2,224	2,862	2,844	1,631	1,345	243	258	10,176	10,431
Pleas of guilty—misdemeanors	278	355	116	70	312	269	553	286	66	57	1,325	1,037
Convictions	429	472	291	333	415	441	202	244	19	35	1,356	1,525
Acquitals	179	212	212	187	135	167	112	151	20	10	658	727
Total dispositions	5,500	5,994	3,442	3,391	4,455	4,443	3,240	2,716	463	470	17,100	17,014
Days sat	7,482	8,004	6,001	6,316	7,579	8,029	3,377	3,891	427	437	24,866	26,677
Defendants tried through proof completed	703	770	538	562	600	658	335	426	46	49	2,222	2,465
Comparative measures												
Dismissals as % of dispositions	23.3	19.9	20.8	17.0	16.4	16.3	22.9	25.4	24.8	23.4	21.0	19.4
Pleas as % of dispositions	65.7	63.6	64.6	67.6	71.3	70.1	67.4	60.1	66.8	67.0	67.3	67.4
Verdicts as % of dispositions	11.0	11.4	14.6	15.3	12.3	13.7	9.7	14.5	8.4	9.6	11.7	13.2
Felony pleas as % of all pleas	87.4	91.4	86.0	96.9	88.3	91.4	64.6	82.5	70.2	81.9	82.2	91.0
Dispositions per day sat	0.74	0.75	0.57	0.54	0.59	0.55	0.96	0.70	1.08	1.08	0.69	0.64

*Criminal terms begin on the first Monday of the calendar year and end on the Sunday before the first Monday of the succeeding calendar year.

Table 16

THE SUPREME COURT WITHIN THE CITY OF NEW YORK
Felony Defendants Pending Disposition
(Expressed in Terms of Defendant-Indictments)

End of December, 1978 and 1979

County	Number of Cases Pending as of December 31	
	1978	1979
New York County	2,993	3,147
Bronx County	1,656	1,658
Kings County	2,438	2,705
Queens County	1,399	1,277
Richmond County	122	131
Total New York City	8,608	8,918

Table 17

THE SUPREME COURT WITHIN THE CITY OF NEW YORK
Number of Detainees Awaiting Disposition or Sentencing
(Expressed in Terms of Individual Detainees)

End of December, 1979

County	Total Number[1]	Percent of City	Number Detained Over One Year[2]	Percent of City
New York County	1,243	40.0%	40	50.6%
Bronx County	623	20.0	5	6.3
Kings County	918	29.5	29	36.7
Queens County	289	9.3	4	5.1
Richmond County	38	1.2	1	1.3
Total New York City	3,111	100.0	79	100.0

[1] Totals from NYC Department of Correction.
[2] Figures from Statistics Unit, OCA/New York City Courts.

Table 18

THE SUPREME COURT AND COUNTY COURTS OUTSIDE THE CITY OF NEW YORK
CRIMINAL TERMS

Indictments Filed, Arraignments, Dispositions, Youthful Offenders and Sentences by County, District, and Judicial Department (Expressed in Terms of Defendant-Indictments)

*January 1, 1979 through December 30, 1979**

Department District County	Total Defendant Indictments and Superior Court Information filed	Total Arraignments	Dispositions[a]				Trials through Proof Completed	Mistrials	Disagreements	Eligible Youths Adjudicated as Youthful Offenders	Sentences imposed
			Indictments Dismissed by Court[b]	Pleas of Guilty	Acquittals	Convictions					
SECOND DEPARTMENT											
9 Dutchess	209	218	17	175	1	17	17	2	1	56	123
Orange	320	317	54	245	4	22	22	2	0	55	203
Putnam	33	91	9	46	0	1	2	0	0	9	41
Rockland	339	320	10	287	3	12	12	4	0	88	223
Westchester	1,057	959	165	733	32	116	141	10	2	149	649
10 Nassau	1,609	1,553	171	1,380	27	96	122	5	4	344	1,183
Suffolk	1,567	1,651	358	1,723	78	129	194	12	5	396	1,562
Total Second Dept	5,134	5,109	784	4,589	145	393	510	35	12	1,097	3,984
THIRD DEPARTMENT											
3 Albany	440	431	52	321	17	41	59	1	0	29	332
Columbia	86	79	18	58	2	1	2	0	0	17	40
Greene	108	158	23	77	1	3	6	2	0	12	67
Rensselaer	142	130	12	116	1	5	7	0	0	27	95
Schoharie	20	26	0	22	0	1	1	0	0	2	16
Sullivan	143	126	8	89	2	4	8	1	0	11	77
Ulster	137	105	34	136	8	25	36	0	4	38	132
4 Clinton	221	211	66	161	1	7	6	0	0	27	120
Essex	157	141	43	74	0	0	0	0	0	14	60
Franklin	176	152	26	106	1	1	1	0	0	32	78
Fulton	93	96	10	77	3	4	8	0	0	22	56
Hamilton	13	8	0	9	0	1	1	0	0	4	11
Montgomery	133	117	45	104	1	5	5	1	0	14	86
St. Lawrence	296	298	68	184	4	8	15	2	2	49	129
Saratoga	93	112	31	77	0	1	3	1	0	7	68
Schenectady	271	266	123	190	3	7	10	0	0	61	201
Warren	51	51	0	53	0	0	0	1	0	10	42
Washington	60	52	0	53	1	0	1	0	0	6	59
6 Broome	497	469	33	372	5	28	32	1	0	97	320
Chemung	384	362	18	348	1	20	22	0	0	98	241
Chenango	75	72	13	54	0	0	1	0	0	5	51
Cortland	182	211	22	135	3	1	4	0	0	46	80
Delaware	38	39	2	33	0	0	0	0	0	12	20
Madison	69	84	0	82	0	3	4	0	1	21	63
Otsego	34	56	1	27	0	5	7	0	0	2	34
Schuyler	49	41	5	26	0	1	1	0	0	6	21
Tioga	22	56	0	49	2	1	6	0	0	22	31
Tompkins	99	106	21	73	0	10	13	0	1	14	88
Total Third Dept	4,089	4,055	675	3,106	56	183	259	10	8	705	2,618
FOURTH DEPARTMENT											
5 Herkimer	18	12	1	14	0	0	0	1	0	1	14
Jefferson	207	215	48	211	0	8	10	1	1	57	162
Lewis	20	39	5	31	0	0	0	0	0	13	19
Oneida	508	514	72	501	14	26	50	7	7	174	358
Onondaga	653	856	101	779	11	36	48	2	1	143	619
Oswego	134	168	10	119	6	3	7	0	0	48	78
7 Cayuga	54	57	4	39	1	5	7	0	0	14	33
Livingston	194	154	17	157	1	2	4	0	0	40	114
Monroe	878	1,052	280	861	57	136	179	11	2	108	906
Ontario	186	191	1	167	2	8	10	1	0	56	129
Seneca	34	56	17	27	0	0	0	0	0	5	20
Steuben	194	215	28	132	0	5	5	0	0	41	95
Wayne	136	88	2	112	2	3	6	0	0	32	74
Yates	24	20	1	22	0	0	0	0	0	3	14
8 Allegany	52	50	6	53	1	1	2	1	0	20	48
Cattaraugus	91	104	3	103	3	5	8	0	0	30	65
Chautauqua	282	273	30	237	1	5	7	0	1	51	182
Erie	947	1,284	287	925	39	111	151	17	3	116	858
Genesee	66	71	5	71	2	3	4	0	0	15	52
Niagara	239	346	76	265	21	32	51	7	1	50	274
Orleans	156	144	17	112	3	13	16	1	1	18	103
Wyoming	56	69	3	43	0	2	3	1	0	13	31
Total Fourth Dept	5,129	5,978	1,014	4,981	164	404	568	50	17	1,048	4,248
Total Outside N.Y.C.	14,352	15,142	2,473	12,676	365	980	1,337	95	37	2,850	10,850

*Criminal terms begin on the first Monday of the calendar year and end on the Sunday before the first Monday of the succeeding calendar year.
[a]Includes indictments disposed of in cases initiated prior to the period covered by this table.
[b]Includes, among others, those indictments dismissed against defendants sentenced on another indictment or disposed of by consolidation; those in which defendants were civilly committed to the Commissioner of Mental Hygiene or to the Office of Drug Abuse Services; and those abated by the death of the defendant.

Table 19

THE SUPREME COURT AND COUNTY COURTS OUTSIDE THE CITY OF NEW YORK—CRIMINAL TERMS

Dispositions by Type

(Expressed in Terms of Defendant—Indictments)

1978 and 1979

Nature of Disposition	Number		Percent	
	1978	1979	1978	1979
1. By dismissal of indictment by court	2,428	2,473	14.9	15.0
2. By plea of guilty	12,689	12,676	78.0	76.9
3. By acquittal after trial	300	365	1.8	2.2
4. By conviction after trial	861	980	5.3	5.9
Total defendant—indictments disposed of	16,278	16,494	100.0	100.0

Table 20

THE SUPREME AND COUNTY COURTS OUTSIDE THE CITY OF NEW YORK

Number of Detainees Awaiting Disposition and Sentencing

(Expressed in Terms of Individual Detainees)

End of Dec. 1978 and 1979

Jurisdiction	Number of Detainees		Number Detained Over One Year	
	1978	1979	1978	1979
Second Department				
Ninth District	190	231	2	8
Tenth District	308	167	3	1
Total Second Department	498	398	5	9
Third Department				
Third District	135	134	2	1
Fourth District	34	36	0	0
Sixth District	65	86	0	0
Total Third Department	234	256	2	1
Fourth Department				
Fifth District	115	70	1	0
Seventh District	85	98	1	2
Eighth District	162	114	11	2
Total Fourth Department	362	312	13	4
Grand Total	1,094	966	20	14

Table 21

THE CRIMINAL COURT OF THE CITY OF NEW YORK
Filings
Summons Cases [1]

Calendars Years 1978 and 1979 Compared

Type of Summons	1978	1979
Traffic	99,283	118,929
Non traffic	441,257	475,612
Total summonses[2]	540,540	594,541

[1] Includes all non-arrest cases and arrest case of peddling where a desk appearance was issued.
[2] Includes universal and non-universal summonses.

Table 22

THE CRIMINAL COURT OF THE CITY OF NEW YORK
Fines Collected*

Calendars Years 1978 and 1979 Compared

Type of Case	1978	1979
Arrest	$2,462,240.84	$1,991,123.00
Summons	1,755,711.50	1,770,892.00
Total fines collected	$4,217,952.34	$3,762,015.00

*City and State fines, excluding fees.

Table 23

THE CRIMINAL COURT OF THE CITY OF NEW YORK—CRIMINAL PROCEEDINGS

Arrest Cases

1979

Activity	New York	Bronx	Kings	Queens	Richmond	Total NYC
Judge Days	4,250	3,159	3,728	2,631	422	14,190
Calendared Cases	225,665	150,845	169,653	122,437	17,960	686,560
Filings	78,377	36,526	50,243	33,556	4,665	203,367
Warrants Filed	28,489	14,268	16,752	7,997	1,463	68,969
Warrants Executed	25,141	12,848	13,355	6,460	1,133	58,937
Preliminary Hearings	1,020	1,074	1,345	1,597	363	5,399
Other Hearings & Motions	162	260	148	425	37	1,032
Trials	288	218	218	271	61	1,056
Dismissals[1]	23,150	16,834	22,762	13,745	1,846	78,337
Pleas of Guilty	42,591	13,865	20,157	14,649	1,846	93,108
Acquittals	150	182	133	193	45	703
Convictions	141	65	68	112	35	421
Referrals to Grand Jury	5,467	3,528	4,249	2,860	538	16,642
Other Dispositions[2]	3,555	2,345	3,125	2,096	124	11,245
Sentences Imposed	44,637	14,500	20,521	14,602	1,839	96,099
Pending Disposition	4,040	3,488	2,128	2,765	507	12,928
Pending Sentence	687	463	718	729	43	2,640

[1] Includes, among others, abatements by death, commitments to Mental Hygiene and ACD's

[2] Includes transfers to family court, other jurisdictions, criminal court summons parts and arrest parts in other counties.

Table 24

THE CRIMINAL COURT OF THE CITY OF NEW YORK—CRIMINAL PROCEEDINGS

Cases Disposed of by Nature of Disposition

Arrest Cases

1978 and 1979

	New York		Bronx		Kings		Queens		Richmond		Total NYC	
Activity	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979
Dismissals	27,234	23,150	19,576	16,834	26,751	22,762	12,723	13,745	1,933	1,846	88,217	78,337
Pleas of Guilty	45,260	42,591	15,465	13,865	22,844	20,157	16,239	14,649	1,820	1,846	101,628	93,108
Acquittals	90	150	183	182	151	133	207	193	31	45	662	703
Convictions	61	141	63	65	48	68	110	112	25	35	307	421
Referral to Grand Jury and Waived Indictment	4,904	5,467	3,150	3,528	4,628	4,249	3,218	2,860	467	538	16,367	16,642
Other Dispositions	3,674	3,555	2,584	2,345	3,145	3,125	1,904	2,096	135	124	11,442	11,245
Total Dispositions	81,223	75,054	41,021	36,819	57,567	50,494	34,401	33,655	4,411	4,434	218,623	200,456
Filings	85,512	78,377	42,167	36,526	57,397	50,243	34,732	33,556	4,301	4,665	224,109	203,367
Dispositions as % of Filings	95	96	97	101	100	100	99	100	103	95	98	99
Dismissals as % of Dispositions	34	31	48	46	46	45	37	41	44	42	40	39
Pleas as % of Dispositions	56	57	38	38	40	40	47	44	41	42	46	46
Verdicts as % of Dispositions	*	*	1	1	*	*	1	1	1	2	*	1
Referral to Grand Jury and Waived Indictment as % of Dispositions	6	7	8	10	8	8	9	9	11	12	7	8
Other Dispositions as % of Dispositions	5	5	6	6	5	6	6	6	3	3	5	6

*Indicates Less Than 0.5%

Table 25

THE CRIMINAL COURT OF THE CITY OF NEW YORK
Number of Detainees Awaiting Action

1978 and 1979

Detainees	New York		Bronx		Kings		Queens		Richmond		Total NYC	
	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979
Awaiting Examination	127	109	114	100	222	217	100	167	13	10	576	603
Awaiting Disposition	203	261	112	193	41	35	84	67	1	4	441	560
Awaiting Sentencing	14	18	14	11	24	16	10	6	1	0	63	51
Total	344	388	240	304	287	268	194	240	15	14	1,080	1,214
Number Detained Over 30 Days	114	121	105	74	69	39	32	25	2	1	322	260

Table 26

THE DISTRICT COURTS AND THE COURTS IN CITIES OUTSIDE THE CITY OF NEW YORK—CRIMINAL MATTERS
Arraignments and Dispositions by Nature, District, and Judicial Department

1979

District and Department	Arraignments	Dispositions							Mistrials
		Dismissals	Pleas	Trials		Held for Grand Jury	Other	Total	
				Convictions	Acquittals				
District 3	6,111	2,179	2,685	18	40	203	293	5,418	0
District 4	5,966	1,904	3,490	40	19	252	418	6,123	11
District 5	7,133	2,395	3,009	48	34	725	1,257	7,468	2
District 6	5,117	1,062	2,982	102	42	232	173	4,593	0
District 7	12,562	4,726	4,493	59	36	438	221	9,973	1
District 8	25,352	14,584	8,388	295	216	1,167	413	25,063	11
District 9	14,475	5,737	8,489	105	67	796	625	15,819	4
District 10	102,469	21,031	43,038	209	310	1,232	429	66,249	27
Department 2	116,944	26,768	51,527	314	377	2,028	1,054	82,068	31
Department 3	17,194	5,145	9,157	160	101	687	884	16,134	11
Department 4	45,047	21,705	15,890	402	286	2,330	1,891	42,504	14
Total Outside of N.Y.C.	179,185	53,618	76,574	876	764	5,045	3,829	140,706	56

NOTE: The following city courts are delinquent in reporting for 1979: District 4 — Saratoga Springs; District 5 — Watertown; District 6 — Cortland and District 8 — Olean. The reporting is incomplete from Lockport in District 8.

Table 27

THE DISTRICT COURTS AND THE COURTS IN CITIES OUTSIDE THE CITY OF NEW YORK—MOTOR VEHICLE MATTERS
Dispositions by Nature, District, and Judicial Department

1979

District and Department	Dispositions							Mistrials
			Trials					
	Dismissals	Pleas	Convictions	Acquittals	Held for Grand Jury	Other	Total	
District 3	5,526	22,302	674	1,059	3	399	29,963	2
District 4	2,251	9,735	82	35	58	221	12,382	0
District 5	9,146	19,472	134	132	22	3,004	31,910	3
District 6	2,308	8,697	286	93	42	71	11,497	0
District 7	2,052	4,014	69	33	28	312	6,508	0
District 8	5,396	19,769	1,141	303	46	648	27,303	0
District 9	9,428	39,497	1,000	440	28	139	50,532	1
District 10	73,047	92,817	1,436	363	8	7	167,678	3
Department 2	82,475	132,314	2,436	803	36	146	218,210	4
Department 3	10,085	40,734	1,042	1,187	103	691	53,842	2
Department 4	16,594	43,255	1,344	468	96	3,964	65,721	3
Total Outiside of NYC	109,154	216,303	4,822	2,458	235	4,801	337,773	9

NOTE: The following city courts are delinquent in reporting for 1979: District 3 — Troy; District 4 — Saratoga Springs: District 5 — Watertown; District 6 — Cortland and District 8 — Olean. The reporting is incomplete from Rochester in District 7 and Lockport in District 8.

Table 28

TOWN COURTS AND VILLAGE COURTS
Number of Criminal Cases by Type

1976 and 1977

Type of Cases	Number of Cases	
	1976	1977
Town and village ordinances and Vehicle and Traffic Law Title VII (except §§ 1180*, 1181, 1182, 1190 and 1192)	952,745	1,041,941
Vehicle and Traffic Law Titles I through VI (except Article 2-A) Titles VII (§§ 1180*, 1181, 1182, 1190, 1192 only), Titles VIII through X and miscellaneous laws	706,565	755,272
Penal Law and indictable offenses	93,415	94,528
Other	14,431	14,187
Total cases	1,767,156	1,905,928

*Except speed limits established under §§ 1643, 1644, 1662-a, 1663 and 1670.

NOTE: Latest available figures.

Source: Department of Audit and Control: Bureau of Justice Court Funds.

Table 29

THE SUPREME COURT — CIVIL TERMS

Actions Received by Type and by County, District and Judicial Department

Jan. 1, 1979 through Dec. 30, 1979

County District Department	Dept.	Dist.	Tort			Contested Matrimonial	Tax Certiorari	Condemnation	All other	Total
			Motor Vehicle	Other Tort	Medical Malpractice					
Albany	3	3	216	182	21	132	32	1	335	919
Allegany	4	8	16	9	2	25	0	0	18	70
Bronx	1	1	1,533	1,372	141	269	437	9	249	4,010
Broome	3	6	113	92	11	68	9	0	181	474
Cattaraugus	4	8	40	16	0	30	0	0	39	125
Cayuga	4	7	21	13	2	50	0	0	42	128
Chautauqua	4	8	47	24	4	103	0	0	55	233
Chemung	3	6	58	57	5	74	0	0	67	261
Chenango	3	6	15	22	2	17	2	0	27	85
Clinton	3	4	22	18	2	50	0	0	51	143
Columbia	3	3	24	27	1	26	0	0	29	107
Cortland	3	6	13	7	0	16	2	1	26	65
Delaware	3	6	14	9	4	15	1	0	30	73
Dutchess	2	9	246	156	16	112	223	0	129	882
Erie	4	8	803	513	77	1,029	0	8	446	2,876
Essex	3	4	14	6	1	20	1	0	28	70
Franklin	3	4	42	19	1	25	0	0	31	118
Fulton	3	4	49	41	4	24	3	0	53	184
Genesee	4	8	22	3	2	35	18	0	26	106
Greene	3	3	26	25	6	8	1	0	30	96
Hamilton	3	4	0	0	0	0	0	0	0	0
Herkimer	4	5	26	23	3	66	3	0	64	185
Jefferson	4	5	60	26	8	134	11	0	46	285
Kings	2	2	2,758	2,246	294	871	169	5	750	7,093
Lewis	4	5	9	2	0	13	0	0	12	36
Livingston	4	7	21	13	0	40	0	0	24	98
Madison	3	6	33	23	3	56	0	0	53	168
Monroe	4	7	338	280	37	760	0	2	397	1,814
Montgomery	3	4	64	30	5	38	3	0	44	184
Nassau	2	10	2,008	1,225	212	928	1,928	28	1,817	8,146
New York	1	1	2,061	2,338	374	461	473	5	2,746	8,458
Niagara	4	8	162	96	8	129	2	1	88	486
Oneida	4	5	137	108	12	202	64	0	194	717
Onondaga	4	5	296	207	25	354	36	0	425	1,343
Ontario	4	7	38	17	0	54	0	0	47	156
Orange	2	9	414	198	26	108	145	0	151	1,042
Orleans	4	8	10	24	3	16	0	0	0	53
Oswego	4	5	111	22	7	122	0	0	99	361
Otsego	3	6	29	17	4	36	2	0	38	126
Putnam	2	9	66	34	8	51	10	2	46	217
Queens	2	11	2,236	1,510	208	769	89	11	750	5,573
Rensselaer	3	3	88	47	11	36	4	0	101	287
Richmond	2	2	293	214	28	185	4	10	88	822
Rockland	2	9	332	262	22	114	364	2	170	1,266
St. Lawrence	3	4	36	10	6	68	3	2	55	180
Saratoga	3	4	115	57	8	47	8	0	78	313
Schenectady	3	4	196	111	24	89	111	0	170	701
Schoharie	3	3	16	18	2	20	1	0	32	89
Schuyler	3	6	3	1	0	15	0	0	8	27
Seneca	4	7	8	11	0	18	0	0	7	44
Steuben	4	7	33	33	1	106	0	0	70	243
Suffolk	2	10	1,803	835	105	972	265	72	860	4,912
Sullivan	3	3	85	69	10	17	1	0	101	283
Tioga	3	6	14	8	0	9	0	0	57	88
Tompkins	3	6	29	21	0	36	7	0	53	146
Ulster	3	3	163	124	10	71	15	0	136	519
Warren	3	4	24	60	3	20	5	1	7	120
Washington	3	4	27	9	0	11	1	0	22	70
Wayne	4	7	32	16	1	54	0	1	41	145
Westchester	2	9	810	644	92	1,006	1,546	4	692	4,794
Wyoming	4	8	11	5	0	17	0	0	21	54
Yates	4	7	4	4	0	12	0	0	8	28
Total District		1	3,594	3,710	515	730	910	14	2,995	12,468
Total District		2	3,051	2,460	322	1,056	173	15	838	7,915
Total District		3	618	492	61	310	54	1	764	2,300
Total District		4	599	361	54	392	135	3	539	2,083
Total District		5	639	388	55	891	114	0	840	2,927
Total District		6	321	257	29	342	23	1	540	1,513
Total District		7	495	387	41	1,094	0	3	636	2,656
Total District		8	1,111	690	96	1,384	20	9	693	4,003
Total District		9	1,868	1,294	164	1,391	2,288	8	1,188	8,201
Total District		10	3,811	2,060	317	1,900	2,193	100	2,677	13,058
Total District		11	2,236	1,510	208	769	89	11	750	5,573
Total Department	1		3,594	3,710	515	730	910	14	2,995	12,468
Total Department	2		10,966	7,324	1,011	5,116	4,743	134	5,453	34,747
Total Department	3		1,538	1,110	144	1,044	212	5	1,843	5,896
Total Department	4		2,245	1,465	192	3,369	134	12	2,169	9,586
Total New York City			8,881	7,680	1,045	2,555	1,172	40	4,583	25,956
Total Outside NYC			9,462	5,929	817	7,704	4,827	125	7,877	36,741
Total New York State			18,343	13,609	1,862	10,259	5,999	165	12,560	62,697

Table 30

THE SUPREME COURT — CIVIL TERMS
Actions Disposed of by Type, County, District, and Judicial Department

Jan. 1, 1979 through Dec. 30, 1979

County District Department	Dept.	Dist.	Tort			Contested Matrimonial	Tax Certiorari	Condemnation	All other	Total
			Motor Vehicle	Other Tort	Medical Malpractice					
Albany	3	3	288	253	25	182	33	3	315	1,099
Allegany	4	8	25	19	5	28	0	0	29	106
Bronx	1	1	1,626	1,464	116	278	463	13	241	4,201
Broome	3	6	84	65	10	75	5	0	127	366
Cattaraugus	4	8	16	13	1	20	2	0	33	85
Cayuga	4	7	20	15	2	54	0	0	30	121
Chautauqua	4	8	28	20	3	96	0	0	41	188
Chemung	3	6	48	32	2	75	9	0	56	227
Chenango	3	6	22	14	0	21	3	0	31	91
Clinton	3	4	23	13	2	54	0	0	53	145
Columbia	3	3	41	34	2	33	1	0	31	142
Cortland	3	6	7	12	4	6	2	0	28	59
Delaware	3	6	14	12	3	14	0	0	25	68
Dutchess	2	9	234	142	17	111	228	0	123	855
Erie	4	8	1,763	851	196	1,056	2	3	679	4,550
Essex	3	4	9	3	0	21	0	0	33	66
Franklin	3	4	22	12	0	16	0	0	4	54
Fulton	3	4	60	34	5	28	5	0	46	178
Genesee	4	8	33	1	5	34	1	0	41	115
Greene	3	3	36	21	2	7	5	0	26	97
Hamilton	3	4	0	0	0	0	0	0	0	0
Herkimer	4	5	23	24	2	48	0	0	64	161
Jefferson	4	5	47	20	7	155	16	0	59	304
Kings	2	2	2,217	2,405	284	886	156	4	378	6,330
Lewis	4	5	15	1	0	14	0	1	9	40
Livingston	4	7	25	16	0	41	0	0	24	106
Madison	3	6	33	21	5	53	0	0	53	165
Monroe	4	7	574	286	47	728	3	37	616	2,291
Montgomery	3	4	66	27	2	16	0	0	49	160
Nassau	2	10	2,530	1,296	149	982	594	39	1,527	7,117
New York	1	1	1,965	1,960	279	424	700	9	3,154	8,491
Niagara	4	8	136	82	4	128	0	0	53	403
Oneida	4	5	129	136	17	192	9	1	187	671
Onondaga	4	5	414	355	22	350	134	0	514	1,789
Ontario	4	7	37	17	4	52	1	0	37	148
Orange	2	9	430	189	27	94	157	0	165	1,062
Orleans	4	8	5	28	0	16	0	0	0	49
Oswego	4	5	94	16	7	110	0	0	91	318
Otsego	3	6	30	20	6	27	0	0	42	125
Putnam	2	9	38	17	4	32	54	0	62	207
Queens	2	11	2,345	1,469	238	842	141	10	572	5,617
Rensselaer	3	3	101	12	7	59	6	0	169	354
Richmond	2	2	291	160	13	200	4	1	93	762
Rockland	2	9	222	189	18	102	548	2	189	1,270
St. Lawrence	3	4	32	6	5	76	4	0	55	178
Saratoga	3	4	113	67	1	48	11	0	63	303
Schenectady	3	4	361	288	27	131	99	0	163	1,069
Schoharie	3	3	14	9	0	18	0	0	30	71
Schuyler	3	6	4	1	0	13	0	0	5	23
Seneca	4	7	12	19	3	22	0	0	7	63
Steuben	4	7	25	26	3	89	0	0	54	197
Suffolk	2	10	2,348	766	76	1,043	227	59	913	5,432
Sullivan	3	3	109	67	10	20	7	0	92	305
Tioga	3	6	19	11	0	13	0	0	32	75
Tompkins	3	6	29	25	2	40	0	0	54	150
Ulster	3	3	144	115	3	71	16	0	135	484
Warren	3	4	27	10	2	22	0	0	52	113
Washington	3	4	36	18	0	14	0	0	3	71
Wayne	4	7	22	12	3	36	0	1	43	117
Westchester	2	9	835	669	62	507	1,503	3	569	4,148
Wyoming	4	8	12	16	4	14	0	0	5	51
Yates	4	7	2	2	0	11	0	0	7	22
Total District		1	3,591	3,424	395	702	1,163	22	3,395	12,692
Total District		2	2,508	2,565	297	1,086	160	5	471	7,092
Total District		3	733	511	49	390	68	3	798	2,552
Total District		4	749	478	44	426	119	0	521	2,337
Total District		5	722	552	55	869	159	2	924	3,283
Total District		6	290	213	37	337	19	0	453	1,349
Total District		7	717	393	62	1,033	4	38	818	3,065
Total District		8	2,018	1,030	218	1,392	5	3	881	5,547
Total District		9	1,759	1,206	128	846	2,490	5	1,108	7,542
Total District		10	4,878	2,062	225	2,025	821	98	2,440	12,549
Total District		11	2,345	1,469	238	842	141	10	572	5,617
Total Department	1		3,591	3,424	395	702	1,163	22	3,395	12,692
Total Department	2		11,490	7,302	888	4,799	3,612	118	4,591	32,800
Total Department	3		1,772	1,202	130	1,153	206	3	1,772	6,238
Total Department	4		3,457	1,975	335	3,294	168	43	2,623	11,895
Total New York City			8,444	7,458	930	2,630	1,464	37	4,438	25,401
Total Outside NYC			11,866	6,445	818	7,318	3,685	149	7,943	38,224
Total New York State			20,310	13,903	1,748	9,948	5,149	186	12,381	63,625

NOTE: In 1979, the Supreme Court disposed of 55,308 uncontested matrimonial cases: 25,731 cases in New York City and 29,577 cases Upstate.

Table 31

THE SUPREME COURT — CIVIL TERMS

Actions Disposed of by Stage and Nature and by County, District, Judicial Department and Region

Jan.1, 1979 through Dec.30, 1979

County District Department	Dept.	Dist.	Before Trial			During Trial		After Trial		Total Dispositions
			Transferred	Marked/ Stricken	Disc. Withdrawn Settlements	Jury	Non-Jury	Jury	Non-Jury	
Albany	3	3	59	205	567	83	48	59	78	1,099
Allegany	4	8	1	8	61	9	3	1	23	106
Bronx	1	1	810	302	2,328	214	18	117	412	4,201
Broome	3	6	33	37	187	22	2	20	65	366
Cattaraugus	4	8	4	20	52	3	0	3	3	85
Cayuga	4	7	4	12	45	11	1	6	42	121
Chautauqua	4	8	8	13	152	1	0	9	5	188
Chemung	3	6	14	57	74	6	16	11	49	227
Chenango	3	6	4	13	46	1	3	11	13	91
Clinton	3	4	6	21	77	11	2	6	22	145
Columbia	3	3	4	1	80	11	0	5	41	142
Cortland	3	6	3	14	17	3	0	8	14	59
Delaware	3	6	1	14	38	2	2	2	9	68
Dutchess	2	9	49	24	568	42	10	42	120	855
Erie	4	8	624	315	2,568	140	27	117	759	4,550
Essex	3	4	1	8	48	5	1	2	1	66
Franklin	3	4	0	11	31	1	0	9	2	54
Fulton	3	4	0	27	100	18	1	10	22	178
Genesee	4	8	1	11	62	2	2	12	25	115
Greene	3	3	2	16	52	13	0	7	7	97
Hamilton	3	4	0	0	0	0	0	0	0	0
Herkimer	4	5	0	17	89	6	7	2	40	161
Jefferson	4	5	0	36	100	9	1	6	152	304
Kings	2	2	1,658	503	2,663	317	25	182	982	6,330
Lewis	4	5	0	10	23	2	0	0	5	40
Livingston	4	7	1	12	70	4	4	5	10	106
Madison	3	6	8	19	65	5	2	8	58	165
Monroe	4	7	100	297	943	130	52	141	628	2,291
Montgomery	3	4	6	13	100	12	2	8	19	160
Nassau	2	10	732	313	3,401	325	411	280	1,655	7,117
New York	1	1	1,294	887	4,434	390	127	283	1,076	8,491
Niagara	4	8	14	18	220	7	4	14	126	403
Oneida	4	5	6	42	416	15	2	32	158	671
Onondaga	4	5	6	618	690	46	15	92	322	1,789
Ontario	4	7	11	11	60	4	3	13	46	148
Orange	2	9	111	88	643	75	11	42	92	1,062
Orleans	4	8	0	0	23	0	0	5	21	49
Oswego	4	5	3	9	148	18	8	22	110	318
Otsego	3	6	0	4	101	9	2	8	1	125
Putnam	2	9	0	5	71	21	15	15	80	207
Queens	2	11	856	486	2,703	379	82	199	912	5,617
Rensselaer	3	3	14	10	255	29	4	13	29	354
Richmond	2	2	82	19	371	42	6	17	225	762
Rockland	2	9	119	79	779	56	13	30	194	1,270
St. Lawrence	3	4	0	1	83	12	0	65	17	178
Saratoga	3	4	3	39	170	25	4	33	29	303
Schenectady	3	4	95	98	690	83	9	27	67	1,069
Schoharie	3	3	2	6	39	4	4	9	7	71
Schuyler	3	6	0	2	10	0	0	0	11	23
Seneca	4	7	4	7	43	3	0	2	4	63
Steuben	4	7	1	40	78	5	1	3	69	197
Suffolk	2	10	364	378	3,169	163	30	141	1,187	5,432
Sullivan	3	3	5	9	196	39	4	16	36	305
Tioga	3	6	1	15	28	13	6	4	8	75
Tompkins	3	6	1	19	71	17	7	7	28	150
Ulster	3	3	0	69	264	4	1	70	76	484
Warren	3	4	5	10	65	5	0	4	24	113
Washington	3	4	6	17	32	5	2	1	8	71
Wayne	4	7	4	16	46	0	0	4	47	117
Westchester	2	9	307	281	2,589	268	53	142	508	4,148
Wyoming	4	8	2	6	30	4	0	3	6	51
Yates	4	7	2	2	8	1	0	2	7	22
Total District		1	2,104	1,189	6,762	604	145	400	1,488	12,692
Total District		2	1,740	522	3,034	359	31	199	1,207	7,092
Total District		3	86	316	1,453	183	61	179	274	2,552
Total District		4	122	245	1,396	177	21	165	211	2,337
Total District		5	15	732	1,466	96	33	154	787	3,283
Total District		6	65	194	637	78	40	79	256	1,349
Total District		7	127	397	1,293	158	61	176	853	3,065
Total District		8	654	391	3,168	166	36	164	968	5,547
Total District		9	586	477	4,650	462	102	271	994	7,542
Total District		10	1,096	691	6,570	488	441	421	2,842	12,549
Total District		11	856	486	2,703	379	82	199	912	5,617
Total Department	1		2,104	1,189	6,762	604	145	400	1,488	12,692
Total Department	2		4,278	2,176	16,957	1,688	656	1,090	5,955	32,800
Total Department	3		273	755	3,486	438	122	423	741	6,238
Total Department	4		796	1,520	5,927	420	130	494	2,608	11,895
Total New York City			4,700	2,197	12,499	1,342	259	798	3,607	25,401
Total Outside NYC			2,751	3,443	20,633	1,808	794	1,609	7,185	38,224
Total New York State			7,451	5,640	33,132	3,150	1,053	2,407	10,792	63,625

NOTE: In 1979, the Supreme Court disposed of 55,308 uncontested matrimonial cases: 25,731 cases in New York City and 29,577 cases Upstate.

Table 32

THE SUPREME COURT — CIVIL TERMS
Actions Received, Disposed and Change in Pending and Projected Average Age by County, District, Judicial Department, and Region

Jan.1, 1979 through Dec.30, 1979

County District Department	Dept.	Dist.	Received			Disposed			Ending Pending			Change in Pending — Actions			Change in Pending — Percent			Projected Avg Age (Mos.)
			Non-Matrimonial	Contested Matrimonial	Total	Non-Matrimonial	Contested Matrimonial	Total	Non-Matrimonial	Contested Matrimonial	Total	Non-Matrimonial	Contested Matrimonial	Total	Non-Matrimonial	Contested Matrimonial	Total	
Albany	3	3	787	132	919	917	182	1,099	966	73	1,039	−79	−4	−83	−7	−5	−7	11
Allegany	4	8	45	25	70	78	28	106	21	3	24	−34	−3	−37	−61	−50	−60	4
Bronx	1	1	3,741	269	4,010	3,923	278	4,201	2,896	72	2,968	−172	−14	−186	−5	−16	−5	8
Broome	3	6	406	68	474	291	75	366	284	37	321	+105	−5	+100	+58	−11	+45	8
Cattaraugus	4	8	95	30	125	65	20	85	75	14	89	+26	+8	+34	+53	+133	+61	10
Cayuga	4	7	78	50	128	67	54	121	26	13	39	+12	+0	+12	+85	+0	+44	3
Chautauqua	4	8	130	103	233	92	96	188	145	54	199	+45	+7	+52	+45	+14	+35	11
Chemung	3	6	187	74	261	152	75	227	140	28	168	+29	+0	+29	+26	+0	+20	8
Chenango	3	6	68	17	85	70	21	91	31	1	32	+0	−4	−4	+0	−80	−11	4
Clinton	3	4	93	50	143	91	54	145	62	37	99	15	−6	−21	−19	−13	−17	9
Columbia	3	3	81	26	107	109	33	142	38	5	43	−27	−7	−34	−41	−58	−44	5
Cortland	3	6	49	16	65	53	6	59	32	6	38	−6	+4	−2	−15	+200	−5	7
Delaware	3	6	58	15	73	54	14	68	36	7	43	+6	+2	+8	+20	+40	+22	6
Dutchess	2	9	770	112	882	744	111	855	473	71	544	+27	+2	+29	+6	+2	+5	7
Erie	4	8	1,847	1,029	2,876	3,494	1,056	4,550	3,847	547	4,394	−1,938	+17	−1,921	−33	+3	−30	14
Essex	3	4	50	20	70	45	21	66	36	7	43	+8	+1	+9	+28	+16	+26	6
Franklin	3	4	93	25	118	38	16	54	103	14	117	+46	+7	+53	+80	+100	+82	20
Fulton	3	4	160	24	184	150	28	178	118	12	130	+7	−7	+0	+6	−36	+0	8
Genesee	4	8	71	35	106	81	34	115	79	18	97	−1	+2	+1	−1	+12	+1	10
Greene	3	3	88	8	96	90	7	97	45	2	47	+1	−2	−1	+2	−50	−2	5
Hamilton	3	4	0	0	0	0	0	0	0	0	0	+0	+0	+0	+0	+0	+0	0
Herkimer	4	5	119	66	185	113	48	161	106	44	150	+1	+15	+16	+0	+51	+11	10
Jefferson	4	5	151	134	285	149	155	304	88	22	110	+1	−21	−20	+1	−48	−15	4
Kings	2	2	6,222	871	7,093	5,444	886	6,330	7,312	114	7,426	+856	−22	+834	+13	−16	+12	13
Lewis	4	5	23	13	36	26	14	40	6	1	7	+0	−3	−3	+0	−75	−30	2
Livingston	4	7	58	40	98	65	41	106	35	14	49	−4	+0	−4	−10	+0	−7	5
Madison	3	6	112	56	168	112	53	165	39	6	45	+7	+0	+7	+21	+0	+18	3
Monroe	4	7	1,054	760	1,814	1,563	728	2,291	1,166	382	1,548	−497	+37	−460	−29	+10	−22	9
Montgomery	3	4	146	38	184	144	16	160	130	28	158	−2	+20	+18	−1	+250	+12	11
Nassau	2	10	7,218	928	8,146	6,135	982	7,117	8,692	315	9,007	+1,070	−93	+977	+14	−22	+12	14
New York	1	1	7,997	461	8,458	8,067	424	8,491	10,447	246	10,693	−166	+31	−135	−1	+14	−1	15
Niagara	4	8	357	129	486	275	128	403	414	66	480	+64	+0	+64	+18	+0	+15	13
Oneida	4	5	515	202	717	479	192	671	505	111	616	+6	+17	+23	+1	+18	+3	10
Onondaga	4	5	989	354	1,343	1,439	350	1,789	1,004	209	1,213	−458	+2	−456	−31	+0	−27	9
Ontario	4	7	102	54	156	96	52	148	44	17	61	+6	+4	+10	+15	+30	+19	4
Orange	2	9	934	108	1,042	968	94	1,062	692	52	744	−35	+13	−22	−4	+33	−2	8
Orleans	4	8	37	16	53	33	16	49	18	4	22	−1	+0	−1	−5	+0	−4	5
Oswego	4	5	239	122	361	208	110	318	199	57	256	+32	+12	+44	+19	+26	+20	8
Otsego	3	6	90	36	126	98	27	125	34	17	51	−8	+9	+1	−19	+112	+2	4
Putnam	2	9	166	51	217	175	32	207	190	32	222	+12	+23	+35	+6	+255	+18	11
Queens	2	11	4,804	769	5,573	4,775	842	5,617	4,343	92	4,435	−58	−20	−78	−1	−17	−1	9
Rensselaer	3	3	251	36	287	295	59	354	270	20	290	−17	−12	−29	−5	−37	−9	10
Richmond	2	2	637	185	822	562	200	762	605	28	633	+75	−16	+59	+14	−36	+10	9
Rockland	2	9	1,152	114	1,266	1,168	102	1,270	1,006	85	1,091	−11	+24	+13	−1	+39	+1	10
St. Lawrence	3	4	112	68	180	102	76	178	48	16	64	+7	−6	+1	+17	−27	+1	4
Saratoga	3	4	266	47	313	255	48	303	231	27	258	+12	−2	+10	+5	−6	+4	10
Schenectady	3	4	612	89	701	938	131	1,069	799	57	856	−346	−52	−398	−30	−47	−31	11
Schoharie	3	3	69	20	89	53	18	71	57	8	65	+18	+1	+19	+46	+14	+41	9
Schuyler	3	6	12	15	27	10	13	23	3	2	5	+2	+1	+3	+200	+100	+150	1
Seneca	4	7	26	18	44	41	22	63	14	8	22	−6	−4	−10	−30	−33	−31	5
Steuben	4	6	137	106	243	108	89	197	71	40	111	+31	+15	+46	+77	+60	+70	5
Suffolk	2	10	3,940	972	4,912	4,389	1,043	5,432	6,333	255	6,588	−586	−108	−694	−8	−29	−9	15
Sullivan	3	3	266	17	283	285	20	305	245	7	252	−16	−2	−18	−6	−22	−6	10
Tioga	3	6	79	9	88	62	13	75	18	3	21	−13	−1	−14	−41	−25	−40	4
Tompkins	3	6	110	36	146	110	40	150	87	15	102	+7	−5	+2	+8	−25	+2	8
Ulster	3	3	448	71	519	413	71	484	354	39	393	+52	+4	+56	+17	+11	+16	9
Warren	3	4	100	20	120	91	22	113	70	9	79	+16	+1	+17	+29	+12	+27	7
Washington	3	4	59	11	70	57	14	71	29	7	36	−5	+0	−5	−14	+0	−12	6
Wayne	4	7	91	54	145	81	36	117	50	21	71	+18	+5	+23	+56	+31	+47	6
Westchester	2	9	3,788	1,006	4,794	3,641	507	4,148	2,917	318	3,235	−106	+127	+21	−3	+66	+0	9
Wyoming	4	8	37	17	54	37	14	51	43	6	49	+7	+6	+13	+19	+0	+36	9
Yates	4	7	16	12	28	11	11	22	7	1	8	+6	+1	+7	+600	+0	+700	2
Total District		1	11,738	730	12,468	11,990	702	12,692	13,343	318	13,661	−338	+17	−321	−2	+5	−2	13
Total District		2	6,859	1,056	7,915	6,006	1,086	7,092	7,917	142	8,059	+931	−38	+893	+13	−21	+12	12
Total District		3	1,990	310	2,300	2,162	390	2,552	1,975	154	2,129	−68	−22	−90	−3	−12	−4	10
Total District		4	1,691	392	2,083	1,911	426	2,337	1,626	214	1,840	−272	−44	−316	−14	−17	−14	10
Total District		5	2,036	891	2,927	2,414	869	3,283	1,908	444	2,352	−418	+22	−396	−17	+5	−14	9
Total District		6	1,171	342	1,513	1,012	337	1,349	704	122	826	+129	+1	+130	+22	+0	+18	6
Total District		7	1,562	1,094	2,656	2,032	1,033	3,065	1,413	496	1,909	−434	+58	−376	−23	+13	−16	8
Total District		8	2,619	1,384	4,003	4,155	1,392	5,547	4,642	712	5,354	−1,832	+37	−1,795	−28	+5	−25	13
Total District		9	6,810	1,391	8,201	6,696	846	7,542	5,278	558	5,836	−113	+189	+76	−2	+51	+1	9
Total District		10	11,158	1,900	13,058	10,524	2,025	12,549	15,025	570	15,595	+484	−201	+283	+3	−26	+1	14
Total District		11	4,804	769	5,573	4,775	842	5,617	4,343	92	4,435	−58	−20	−78	−1	−17	−1	9
Total Department	1		11,738	730	12,468	11,990	702	12,692	13,343	318	13,661	−338	+17	−321	−2	+5	−2	13
Total Department	2		29,631	5,116	34,747	28,001	4,799	32,800	32,563	1,362	33,925	+1,244	−70	+1,174	+3	−4	+3	12
Total Department	3		4,852	1,044	5,896	5,085	1,153	6,238	4,305	490	4,795	−211	−65	−276	−4	−11	−5	9
Total Department	4		6,217	3,369	9,586	8,601	3,294	11,895	7,963	1,652	9,615	−2,684	+117	−2,567	−25	+7	−21	10
Total New York City			23,401	2,555	25,956	22,771	2,630	25,401	25,603	552	26,155	+535	−41	+494	+2	−6	+1	12
Total Outside NYC			29,037	7,704	36,741	30,906	7,318	38,224	32,571	3,270	35,841	−2,524	+40	−2,484	−7	+1	−6	11
Total New York State			52,438	10,259	62,697	53,677	9,948	63,625	58,174	3,822	61,996	−1,989	−1	−1,990	−3	+0	−3	11

Note: In 1979, the Supreme Court disposed of 55,308 uncontested matrimonial cases: 25,731 cases in New York City and 29,577 cases Upstate.

Table 33

THE COUNTY COURTS — CIVIL TERMS
Actions Received by Type
And by County, District and Judicial Department

Jan. 1, 1979 through Dec. 30, 1979

County District Department	Dept	Dist	Tort			Tax Certiorari	Condemnation	All other	Total
			Motor Vehicle	Other Tort	Medical Malpractice				
Albany	3	3	10	3	0	0	0	19	32
Allegany	4	8	1	1	0	0	0	4	6
Broome	3	6	0	0	0	0	0	0	0
Cattaraugus	4	8	2	0	0	0	0	8	10
Cayuga	4	7	3	2	0	0	0	5	10
Chautauqua	4	8	1	2	0	0	0	21	24
Chemung	3	6	0	1	0	0	0	1	2
Chenango	3	6	2	0	0	0	0	7	9
Clinton	3	4	2	0	0	0	0	9	11
Columbia	3	3	3	1	0	0	0	11	15
Cortland	3	6	0	0	0	0	0	0	0
Delaware	3	6	1	0	0	0	0	12	13
Dutchess	2	9	47	42	0	0	0	111	200
Erie	4	8	1	2	0	0	0	16	19
Essex	3	4	2	0	0	0	0	4	6
Franklin	3	4	1	0	0	0	0	13	14
Fulton	3	4	5	5	0	0	0	11	21
Genesee	4	8	0	0	0	0	0	6	6
Greene	3	3	2	0	0	0	0	21	23
Hamilton	3	4	0	0	0	0	1	0	1
Herkimer	4	5	0	1	0	0	0	11	12
Jefferson	4	5	1	2	0	0	0	4	7
Lewis	4	5	1	0	0	0	0	1	2
Livingston	4	7	2	0	0	0	0	7	9
Madison	3	6	3	14	0	0	0	0	17
Monroe	4	7	0	0	0	0	0	0	0
Montgomery	3	4	2	0	0	0	0	15	17
Nassau	2	10	443	166	1	0	0	3	613
Niagara	4	8	0	0	0	0	0	0	0
Oneida	4	5	0	1	0	0	0	1	2
Onondaga	4	5	0	0	0	0	0	0	0
Ontario	4	7	1	3	0	0	0	8	12
Orange	2	9	103	28	4	0	0	69	204
Orleans	4	8	1	3	0	0	0	0	4
Oswego	4	5	0	0	0	0	0	1	1
Otsego	3	6	1	1	0	0	0	12	14
Putnam	2	9	5	5	0	0	0	27	37
Rensselaer	3	3	6	2	0	0	0	16	24
Rockland	2	9	95	39	1	0	1	117	253
St. Lawrence	3	4	0	1	0	0	0	18	19
Saratoga	3	4	4	7	0	0	0	34	45
Schenectady	3	4	61	35	0	0	0	58	154
Schoharie	3	3	1	0	0	0	0	12	13
Schuyler	3	6	0	0	0	0	0	2	2
Seneca	4	7	0	0	0	0	0	5	5
Steuben	4	7	5	6	0	0	0	24	35
Suffolk	2	10	222	66	0	0	0	57	345
Sullivan	3	3	2	0	0	0	0	3	5
Tioga	3	6	3	0	0	0	0	5	8
Tompkins	3	6	0	0	0	0	0	4	4
Ulster	3	3	2	6	0	0	0	27	35
Warren	3	4	4	0	0	0	0	23	27
Washington	3	4	2	0	0	0	0	6	8
Wayne	4	7	2	2	0	0	0	13	17
Westchester	2	9	217	133	2	0	0	415	767
Wyoming	4	8	1	0	0	0	0	7	8
Yates	4	7	0	2	0	0	0	5	7
Total District		3	26	12	0	0	0	109	147
Total District		4	83	48	0	0	1	191	323
Total District		5	2	4	0	0	0	18	24
Total District		6	10	16	0	0	0	43	69
Total District		7	13	15	0	0	0	67	95
Total District		8	7	8	0	0	0	62	77
Total District		9	467	247	7	0	1	739	1,461
Total District		10	665	232	1	0	0	60	958
Total Department	2		1,132	479	8	0	1	799	2,419
Total Department	3		119	76	0	0	1	343	539
Total Department	4		22	27	0	0	0	147	196
Total Outside NYC			1,273	582	8	0	2	1,289	3,154

Table 34

THE COUNTY COURTS — CIVIL TERMS
Actions Disposed of by Type
And by County, District, and Judicial Department

Jan.1, through Dec.30, 1979

County District Department	Dept.	Dist.	Tort			Tax Certiorari	Condemnation	All other	Total
			Motor Vehicle	Other Tort	Medical Mal-Practice				
Albany	3	3	10	14	0	0	0	31	55
Allegany	4	8	1	0	0	0	0	2	3
Broome	3	6	0	0	0	0	0	0	0
Cattaraugus	4	8	3	0	0	0	0	8	11
Cayuga	4	7	5	1	0	0	0	7	13
Chautauqua	4	8	1	0	0	0	0	20	21
Chemung	3	6	1	0	0	0	0	8	9
Chenango	3	6	2	2	0	0	0	7	11
Clinton	3	4	2	2	0	0	0	16	20
Columbia	3	3	6	1	0	0	0	12	19
Cortland	3	6	0	1	0	0	0	3	4
Delaware	3	6	1	1	0	0	0	15	17
Dutchess	2	9	44	29	0	0	0	108	181
Erie	4	8	4	1	0	0	0	15	20
Essex	3	4	1	0	0	0	0	5	6
Franklin	3	4	0	0	0	0	0	6	6
Fulton	3	4	10	7	0	1	0	25	43
Genesee	4	8	4	0	0	0	0	20	24
Greene	3	3	1	2	0	0	0	15	18
Hamilton	3	4	0	0	0	0	1	1	2
Herkimer	4	5	1	0	0	0	0	6	7
Jefferson	4	5	1	0	0	0	0	7	8
Lewis	4	5	0	0	0	0	0	1	1
Livingston	4	7	3	1	0	0	0	7	11
Madison	3	6	6	15	0	0	0	0	21
Monroe	4	7	0	0	0	0	0	0	0
Montgomery	3	4	3	2	0	0	0	13	18
Nassau	2	10	572	211	1	0	0	2	786
Niagara	4	8	0	0	0	0	0	0	0
Oneida	4	5	0	1	0	0	0	0	1
Onondaga	4	5	1	0	0	0	0	3	4
Ontario	4	7	1	0	0	0	0	9	10
Orange	2	9	106	39	5	0	0	62	212
Orleans	4	8	1	3	0	0	0	0	4
Oswego	4	5	0	0	0	0	0	0	0
Otsego	3	6	0	1	0	0	0	9	10
Putnam	2	9	6	8	0	0	0	27	41
Rensselaer	3	3	9	3	0	0	0	14	26
Rockland	2	9	85	42	1	0	0	145	273
St. Lawrence	3	4	0	2	0	0	1	17	20
Saratoga	3	4	12	8	0	0	0	46	66
Schenectady	3	4	94	42	1	0	0	67	204
Schoharie	3	3	2	1	0	0	0	11	14
Schuyler	3	6	0	0	0	0	0	4	4
Seneca	4	7	0	0	0	0	0	5	5
Steuben	4	7	4	4	0	0	0	32	40
Suffolk	2	10	103	75	0	0	0	54	232
Sullivan	3	3	0	2	0	0	0	3	5
Tioga	3	6	1	1	0	0	0	7	9
Tompkins	3	6	1	0	0	0	0	5	6
Ulster	3	3	3	4	0	0	0	17	24
Warren	3	4	2	0	0	0	0	27	29
Washington	3	4	2	0	0	0	0	1	3
Wayne	4	7	3	2	0	0	0	16	21
Westchester	2	9	307	180	1	0	0	460	948
Wyoming	4	8	1	1	0	0	0	4	6
Yates	4	7	0	2	0	0	0	3	5
Total District		3	31	27	0	0	0	103	161
Total District		4	126	63	1	1	2	224	417
Total District		5	3	1	0	0	0	17	21
Total District		6	12	21	0	0	0	58	91
Total District		7	16	10	0	0	0	79	105
Total District		8	15	5	0	0	0	69	89
Total District		9	548	298	7	0	0	802	1,655
Total District		10	675	286	1	0	0	56	1,018
Total Department	2		1,223	584	8	0	0	858	2,673
Total Department	3		169	111	1	1	2	385	669
Total Department	4		34	16	0	0	0	165	215
Total Outside NYC			1,426	711	9	1	2	1,408	3,557

Table 35

THE COUNTY COURTS — CIVIL TERMS
Actions Disposed of by Stage and Nature
And by County, District, and Judicial Department

Jan.1, 1979 through Dec.30, 1979

County District Department	Dept	Dist	Before Trial			During Trial		After Trial		Total Dispositions
			Transferred	Marked Stricken	Disc. Withdrawn Settlements	Jury	Non-Jury	Jury	Non-Jury	
Albany	3	3	6	2	43	0	0	0	4	55
Allegany	4	8	0	3	0	0	0	0	0	3
Broome	3	6	0	0	0	0	0	0	0	0
Cattaraugus	4	8	0	2	5	1	1	0	2	11
Cayuga	4	7	0	0	10	0	2	0	1	13
Chautauqua	4	8	2	1	12	0	0	0	6	21
Chemung	3	6	2	0	7	0	0	0	0	9
Chenango	3	6	0	2	5	0	0	3	1	11
Clinton	3	4	2	0	16	1	0	1	0	20
Columbia	3	3	0	1	15	2	1	0	0	19
Cortland	3	6	1	3	0	0	0	0	0	4
Delaware	3	6	0	6	5	1	0	2	3	17
Dutchess	2	9	24	7	129	3	3	4	11	181
Erie	4	8	16	3	1	0	0	0	0	20
Essex	3	4	0	0	6	0	0	0	0	6
Franklin	3	4	0	1	5	0	0	0	0	6
Fulton	3	4	0	5	21	3	1	3	10	43
Genesee	4	8	0	2	15	0	0	2	5	24
Greene	3	3	0	0	13	0	0	3	2	18
Hamilton	3	4	0	0	1	0	0	0	1	2
Herkimer	4	5	0	1	2	0	0	1	3	7
Jefferson	4	5	6	2	0	0	0	0	0	8
Lewis	4	5	0	0	1	0	0	0	0	1
Livingston	4	7	1	3	4	1	0	2	0	11
Madison	3	6	1	0	14	0	0	2	4	21
Monroe	4	7	0	0	0	0	0	0	0	0
Montgomery	3	4	0	0	13	3	0	0	2	18
Nassau	2	10	89	47	609	25	1	14	1	786
Niagara	4	8	0	0	0	0	0	0	0	0
Oneida	4	5	1	0	0	0	0	0	0	1
Onondaga	4	5	2	0	2	0	0	0	0	4
Ontario	4	7	0	2	4	1	0	1	2	10
Orange	2	9	56	12	124	11	1	6	2	212
Orleans	4	8	0	0	3	0	0	1	0	4
Oswego	4	5	0	0	0	0	0	0	0	0
Otsego	3	6	0	1	5	0	0	1	3	10
Putnam	2	9	13	0	18	1	2	1	6	41
Rensselaer	3	3	4	0	14	0	0	2	6	26
Rockland	2	9	8	32	197	1	6	8	21	273
St. Lawrence	3	4	1	5	6	3	2	0	3	20
Saratoga	3	4	0	9	40	2	0	5	10	66
Schenectady	3	4	0	10	173	7	0	6	8	204
Schoharie	3	3	1	1	7	1	0	1	3	14
Schuyler	3	6	0	0	3	0	0	1	0	4
Seneca	4	7	1	0	4	0	0	0	0	5
Steuben	4	7	0	11	15	0	0	0	14	40
Suffolk	2	10	3	29	185	6	2	5	2	232
Sullivan	3	3	1	2	2	0	0	0	0	5
Tioga	3	6	0	5	1	0	0	0	3	9
Tompkins	3	6	0	0	3	0	0	1	2	6
Ulster	3	3	0	5	11	0	0	5	3	24
Warren	3	4	0	1	21	1	2	3	1	29
Washington	3	4	0	1	1	0	0	1	0	3
Wayne	4	7	0	3	11	0	1	1	5	21
Westchester	2	9	410	53	390	9	4	17	65	948
Wyoming	4	8	0	2	0	0	0	0	4	6
Yates	4	7	0	0	5	0	0	0	0	5
Total District	....	3	12	11	105	3	1	11	18	161
Total District	....	4	3	32	303	20	5	19	35	417
Total District	....	5	9	3	5	0	0	1	3	21
Total District	....	6	4	17	43	1	0	10	16	91
Total District	....	7	2	19	53	2	3	4	22	105
Total District	....	8	18	13	36	1	1	3	17	89
Total District	....	9	511	104	858	25	16	36	105	1,655
Total District	....	10	92	76	794	31	3	19	3	1,018
Total Department	2	....	603	180	1,652	56	19	55	108	2,673
Total Department	3	....	19	60	451	24	6	40	69	669
Total Department	4	....	29	35	94	3	4	8	42	215
Total Outside NYC			651	275	2,197	83	29	103	219	3,557

Table 36

THE COUNTY COURTS — CIVIL TERMS
Actions Received, Disposed and Change in Pending and Projected Average Age by County, District, and Judicial Department

Jan. 1, 1979 through Dec. 30, 1979

Department	Dept	Dist	Total Received	Total Disposed	Ending Pending	Change in Pending		Projected Average Age (Mos.)
						Actions	Percent	
Albany	3	3	32	55	31	−22	−41	9
Allegany	4	8	6	3	3	+3	+0	6
Broome	3	6	0	0	0	+0	+0	0
Cattaraugus	4	8	10	11	3	−3	−50	4
Cayuga	4	7	10	13	1	−1	−50	1
Chautauqua	4	8	24	21	11	+2	+22	5
Chemung	3	6	2	9	8	−7	−46	15
Chenango	3	6	9	11	2	−2	−50	3
Clinton	3	4	11	20	8	−13	−61	8
Columbia	3	3	15	19	39	−5	−11	26
Cortland	3	6	0	4	0	−4	−100	6
Delaware	3	6	13	17	3	−5	−62	3
Dutchess	2	9	200	181	114	+21	+22	6
Erie	4	8	19	20	22	−2	−8	13
Essex	3	4	6	6	4	+0	+0	7
Franklin	3	4	14	6	18	+7	+63	28
Fulton	3	4	21	43	28	−19	−40	10
Genesee	4	8	6	24	3	−17	−85	5
Greene	3	3	23	18	31	+10	+47	17
Hamilton	3	4	1	2	0	−1	−100	3
Herkimer	4	5	12	7	9	+5	+125	11
Jefferson	4	5	7	8	34	+0	+0	51
Lewis	4	5	2	1	4	+2	+100	36
Livingston	4	7	9	11	3	−1	−25	3
Madison	3	6	17	21	5	−2	−28	3
Monroe	4	7	0	0	0	+0	+0	0
Montgomery	3	4	17	18	18	−11	−37	15
Nassau	2	10	613	786	310	−88	−22	5
Niagara	4	8	0	0	0	+0	+0	0
Oneida	4	5	2	1	26	+2	+8	300
Onondaga	4	5	0	4	3	−4	−57	15
Ontario	4	7	12	10	7	+2	+40	7
Orange	2	9	204	212	127	+3	+2	7
Orleans	4	8	4	4	1	+0	+0	3
Oswego	4	5	1	0	1	+1	+0	0
Otsego	3	6	14	10	14	+4	+40	14
Putnam	2	9	37	41	26	−5	−16	8
Rensselaer	3	3	24	26	71	+8	+12	30
Rockland	2	9	253	273	94	−38	−28	4
St. Lawrence	3	4	19	20	12	−1	−7	7
Saratoga	3	4	45	66	44	−21	−32	9
Schenectady	3	4	154	204	187	−65	−25	12
Schoharie	3	3	13	14	8	−1	−11	7
Schuyler	3	6	2	4	0	−2	−100	3
Seneca	4	7	5	5	1	+0	+0	2
Steuben	4	7	35	40	18	−7	−28	6
Suffolk	2	10	345	232	174	+113	+185	6
Sullivan	3	3	5	5	18	+1	+5	42
Tioga	3	6	8	9	4	−2	−33	6
Tompkins	3	6	4	6	5	−2	−28	12
Ulster	3	3	35	24	47	+2	+4	22
Warren	3	4	27	29	11	+3	+37	3
Washington	3	4	8	3	18	+3	+20	66
Wayne	4	7	17	21	1	−5	−83	1
Westchester	2	9	767	948	264	−182	−40	4
Wyoming	4	8	8	6	8	−1	−11	16
Yates	4	7	7	5	1	+1	+0	1
Total District		3	147	161	245	−7	−2	18
Total District		4	323	417	348	−118	−25	11
Total District		5	24	21	77	+6	+8	42
Total District		6	69	91	41	−22	−34	6
Total District		7	95	105	32	−11	−25	4
Total District		8	77	89	51	−18	−26	8
Total District		9	1,461	1,655	625	−201	−24	5
Total District		10	958	1,018	484	+25	+5	5
Total Department	2		2,419	2,673	1,109	−176	−13	5
Total Department	3		539	669	634	−147	−18	12
Total Department	4		196	215	160	−23	−12	9
Total Outside NYC			3,154	3,557	1,903	−346	−15	7

Table 37

THE CIVIL COURT OF THE CITY OF NEW YORK
Actions and Special Proceedings Received [1] by Type and by County

Jan. 1, 1979 through Dec. 30, 1979

County	Civil Action Parts: Actions: Tort	Commercial	Equity	TOTAL	Housing Part: Actions and Special Proceedings to: Impose Penalties	Recover Costs	Enforce Liens	Issue Injunctions	Appoint Receiver	Remove Violations of Record	Compel Compliance	Fuel Adjustment Pass Along	Article 7a Proceedings	Total	Grand Total
Bronx[2]	3,123	1,301	.....	4,424	6	.....	.....	.....	.....	.....	1,255	.....	38	1,299	5,723
Kings	9,091	4,736	.....	13,827	357	136	.....	.....	.....	.....	230	.....	48	771	14,598
New York	10,882	9,218	.....	20,100	98	10	.....	.....	.....	.....	576	.....	57	742	20,842
Queens	8,068	3,633	.....	11,701	53	.....	.....	.....	.....	.....	482	.....	7	542	12,243
Richmond	545	707	.....	1,252	2	.....	.....	.....	.....	3	3	.....	.....	8	1,260
Total New York City	31,709	19,595	.....	51,304	516	146	.....	1	.....	3	2,546	.....	150	3,362	54,666
Bronx Arbitration	466	603	.....	1,069	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1,069

[1] Total of new actions and special proceedings plus restorations plus transfers from other courts plus and/or minus transfers within court.

[2] Not including Compulsory Arbitration.

Table 38

THE CIVIL COURT OF THE CITY OF NEW YORK
Actions and Special Proceedings Disposed by Type and by County

Jan. 1, 1979 through Dec. 30, 1979

County	Civil Actions Parts: Actions: Tort	Commerical	Equity	Total	Housing Part: Actions and Special Proceedings to: Impose Penalties	Recover Costs	Enforce Liens	Issue Injunctions	Appoint Receiver	Remove Violations of Record	Compel Compliance	Fuel Adjustment Pass Along	Article 7a Proceedings	Total	Grand Total
Bronx[1]	3,034	1,257	.....	4,291	26	4	.....	.....	.....	.....	1,084	.....	13	1,127	5,418
Kings	8,988	4,454	.....	13,442	247	54	.....	.....	.....	.....	110	.....	23	434	13,876
New York	12,298	9,489	.....	21,787	46	4	.....	.....	.....	.....	314	.....	23	387	22,174
Queens	9,219	3,753	.....	12,972	53	.....	.....	.....	.....	.....	485	.....	9	547	13,519
Richmond	476	666	.....	1,142	2	.....	.....	.....	.....	4	3	.....	.....	9	1,151
Total New York City	34,015	19,619	.....	53,634	374	62	.....	.....	.....	4	1,996	.....	68	2,504	56,138
Bronx Arbitration	451	598	.....	1,049	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1,049

[1] Not including Compulsory Arbitration.

Table 39

THE CIVIL COURT OF THE CITY OF NEW YORK
Actions and Special Proceedings Disposed of by Stage, Nature, and County

Jan. 1, 1979 through Dec. 30, 1979

A. CIVIL ACTION PARTS

County	Before Trial				During Trial		After Trial		Interim Dispositions		Total
	Settled, Discontinued or Dismissed	Default Judgment (Inquest)	Marked off Calendar[1]	Consent Judgment	Settled or Discontinued	Dismissed	Decision of Court	Verdict of Jury	Disagreement or Mistrial	Adjustments by Court	
Bronx[2]	3,211	535	357	...	82	7	63	30	6	.....	4,291
Kings	9,553	1,411	1,565	16	329	24	330	184	30	.....	13,442
New York	15,195	2,333	2,756	3	323	19	876	245	37	.....	21,787
Queens	7,741	1,170	3,525	...	82	12	319	99	24	.....	12,972
Richmond	739	204	102	1	16	2	49	22	7	.....	1,142
Total New York City	36,439	5,653	8,305	20	832	64	1,637	580	104	.....	53,634
Bronx Arbitration	.....	.....	.....	...	.....	..	.....	..	.....	.....	1,049

[1] Includes 7 cases that went to the military reserve calendar.
[2] Not including Compulsory Arbitration.

B. HOUSING PART

County	Before Trial				During Trial		After Trial		Interim Dispositions		Total
	Settled, Discontinued or Dismissed	Default Judgment (Inquest)	Marked off Calendar	Consent Judgment	Settled or Discontinued	Dismissed	Decision of Court	Verdict of Jury	Disagreement or Mistrial	Adjustments by Court	
Bronx	819	31	91	...	19	8	159	...	...	...	1,127
Kings	305	48	...	20	28	4	29	...	...	...	434
New York	202	163	8	...	...	...	14	...	...	...	387
Queens	465	66	7	...	2	...	7	...	...	...	547
Richmond	9	...	...	1	...	...	...	...	...	...	10
Total New York City	1,800	308	106	21	49	12	209	...	...	...	2,505

Table 40

THE CIVIL COURT OF THE CITY OF NEW YORK
Actions and Special Proceedings Received, Disposed and Change in Pending and Projected Average Age by Part and by County

Jan. 1, 1979 through Dec. 30, 1979

County	Beginning Pending			Received[1]			Disposed			Ending Pending[2]			Change in Pending						Projected Avg. Age (mos.)
													Number			Percent			
	Civil Action Parts	Housing Part	Total	Civil Action Parts	Housing Part	Total	Civil Action Parts	Housing Part	Total	Civil Action Parts	Housing Part	Total	Civil Action Parts	Housing Part	Total	Civil Action Parts	Housing Part	Total	
Bronx*	1,268	128	1,396	4,424	1,299	5,723	4,291	1,127	5,418	1,401	300	1,701	+133	+172	+305	+10	+134	+22	3.7
Kings	5,688	577	6,265	13,827	771	14,598	13,442	434	13,876	6,073	914	6,987	+385	+337	+723	+7	+58	+12	5.2
New York	5,045	220	5,265	20,100	742	20,842	21,787	387	22,174	4,358	575	4,933	−1,687	+335	−1,332	−33	+161	−16	4.0
Queens	5,380	21	5,401	11,701	542	12,243	12,972	547	13,519	4,109	16	4,125	−1,271	−5	−1,276	−24	−24	−24	4.4
Richmond	377	1	378	1,252	8	1,260	1,142	9	1,151	487	0	487	+110	−1	+109	+29	−100	+29	4.5
Total New York City	20,758	947	21,705	51,304	3,362	54,666	53,634	2,504	56,138	18,428	1,805	20,233	−2,330	+858	−1,472	−11	+91	−7	4.4
Bronx Arbitration	182	.....	182	1,069	.....	1,069	1,049	.....	1,049	202	.....	202	+20	.....	+20	+11	.....	+11	2.2

*Not including Compulsory Arbitration.
[1] Total of new actions and special proceedings plus restorations plus transfers from other Courts plus and/or minus transfers within Court.
[2] The ending pending actions of the Civil Actions Parts consisted of 8,293 jury and 10,135 non-jury; the ending pending actions and special proceedings of the Housing Part were all non-jury.

Table 41

THE CIVIL COURT OF THE CITY OF NEW YORK
Summary Proceedings Received[1] by Type

Jan. 1, 1979 through Dec. 30, 1979

County	Housing Part			Non-Housing Part			Grand Total		
	Jury	Non-Jury	Total	Jury	Non-Jury	Total	Jury	Non-Jury	Total
Bronx	9	20,897	20,906	...	464	464	9	21,361	21,370
Kings	146	27,554	27,700	5	969	974	151	28,523	28,674
New York	385	20,610	20,995	83	3,712	3,795	468	24,322	24,790
Queens	4	10,579	10,583	3	514	517	7	11,093	11,100
Richmond	...	882	882	2	39	41	2	921	923
Total New York City	544	80,522	81,066	93	5,698	5,791	637	86,220	86,857

[1] Total of new summary proceedings plus restorations plus and/or minus transfers within court. There were an additional 329,387 petitions filed in which no answer was filed. Of these about 38 percent resulted in the clerk entering default judgments for which warrants were issued.

Table 42

THE CIVIL COURT OF THE CITY OF NEW YORK
Summary Proceedings Disposed by Type

Jan. 1, 1979 through Dec. 30, 1979

County	Housing Part			Non-Housing Part			Grand Total		
	Jury	Non-Jury	Total	Jury	Non-Jury	Total	Jury	Non-Jury	Total
Bronx	14	20,913	20,927	...	405	405	14	21,318	21,332
Kings	68	27,319	27,387	4	688	692	72	28,007	28,079
New York	143	19,783	19,926	80	3,873	3,953	223	23,656	23,879
Queens	4	10,550	10,554	1	509	510	5	11,059	11,064
Richmond	...	861	861	2	42	44	2	903	905
Total New York City	229	79,426	79,655	87	5,517	5,604	316	84,943	85,259

Table 43

THE CIVIL COURT OF THE CITY OF NEW YORK
Summary of Proceedings Disposed of By Stage and Nature and by County

Jan. 1, 1979 through Dec. 30, 1979

County	Before Trial					During Trial		After Trial		Interim Dispositions	Adjustments by Court	Total
	Settled, Discontinued or Dismissed	Default-No Inquest	Inquest by Court	Marked off Calendar	Referred to Referee	Settled or Discontinued	Dismissed	Decision of Court	Verdict of jury	Disagreement or Mistrial		
Bronx	14,406	4,799	262	164	...	4	1	1,692	4	...	...	21,332
Kings	17,711	6,124	542	27	...	983	62	2,628	2	...	...	28,079
New York	17,357	3,647	981	385	...	123	45	1,301	18	22	...	23,879
Queens	7,700	1,789	467	12	...	880	1	208	2	5	...	11,064
Richmond	374	73	25	3	...	...	1	426	...	3	...	905
Total New York City	57,548	16,432	2,277	591	...	1,990	110	6,255	26	30	...	85,259

Table 44

THE CIVIL COURT OF THE CITY OF NEW YORK
Summary Proceedings Received, Disposed and Change in Pending by Calendar and by County

Jan. 1, 1979 through Dec. 30, 1979

County	Beginning Pending			Received[1]			Disposed			Ending Pending[2]			Change in Pending: Number			Change in Pending: Percent		
	Jury	Non-Jury	Total	Jury	Non-Jury	Total	Jury	Non-Jury	Total	Jury	Non-Jury	Total	Jury	Non-Jury	Total	Jury	Non-Jury	Total
Bronx	5	715	720	9	21,361	21,370	14	21,318	21,332	...	758	758	-5	+43	+38	-100	+6	+5
Kings	75	62	137	151	28,523	28,574	72	28,007	28,079	154	578	732	+79	+516	+595	+105	+832	+434
New York	70	1,980	2,050	468	24,322	24,790	223	23,656	23,879	315	2,646	2,961	+245	+666	+911	+350	+34	+44
Queens	3	108	111	7	11,093	11,100	5	11,059	11,064	5	142	147	+2	+34	+36	+67	+32	+32
Richmond	...	49	49	2	921	923	2	903	905	...	67	67	...	+18	+18	...	+37	+37
Total New York City	153	2,914	3,067	637	86,220	86,857	316	84,943	85,259	474	4,191	4,665	+321	+1,277	+1,598	+210	+44	+52

[1] Total of new summary proceedings plus restorations plus and/or minus transfers within the court. There were an additional 329,387 petitions filed in which no answer was filed. Of the total number of new summary proceedings about 38 percent resulted in the clerk entering default judgments for which warrants were issued.
[2] The ending pending jury proceedings consisted of 436 Housing Part and 38 Non-Housing; the ending pending non-jury summary proceedings were 3,402 Housing Part and 789 Non-Housing.

Table 45

THE CIVIL COURT OF THE CITY OF NEW YORK
SPECIAL TERM PART I
Dispositions of Contested Motions by Nature and by Type

Jan. 1, 1979 through Dec. 30, 1979

Type of Motion	Total on Calendar	Adjourned	Withdrawn or Marked off Calendar	Granted	Denied
1. Summary judgment	6,457	2,364	465	2,719	909
2. Judgment on pleadings	1,416	474	132	584	226
3. Bring in additional parties	696	156	110	302	128
4. Examination before trial	5,948	2,371	378	2,322	877
5. Bills of particulars	12,059	5,050	1,192	4,615	1,202
6. Security for costs	290	92	41	122	35
7. Dismiss for lack of prosecution	2,604	970	269	821	544
8. Preference	20	10	5	4	1
9. Change of venue	350	125	41	124	60
10. Interpleader	130	41	23	51	15
11. Discontinue	280	82	41	134	23
12. Stay	377	98	48	116	115
13. Consolidate	1,788	611	144	815	218
14. Re-argue	431	117	42	204	68
15. Restore	5,000	1,495	203	2,850	452
16. Open default	4,031	1,054	279	2,385	313
17. Vacate notice of examination before trial	603	143	97	286	77
18. Vacate subpoena or order in enforcement	49	20	13	14	2
19. Appoint receiver	54	17	5	19	13
20. Direct payments out of income	190	32	43	86	29
21. Direct garnishee to turn over funds	485	87	53	274	71
22. Miscellaneous	11,018	4,182	908	4,544	1,384
Total New York City	54,276	19,591	4,532	23,391	6,762

Table 46

THE CIVIL COURT OF THE CITY OF NEW YORK
SPECIAL TERM PART II
Ex Parte Orders by County and by Type

Jan. 1, 1979 through Dec. 30, 1979

Type of Order	Bronx	Kings	New York	Queens	Richmond	Total N.Y.C.
1. Orders to show cause signed	2,001	2,867	9,816	3,524	630	18,838
2. Action for recovery of a chattel	3,238	12,913	10,317	83	11	26,562
3. Orders for leave to compromise	703	1,179	439	625	248	3,194
4. Enforcement proceedings	265	269	1,320	430	21	2,305
5. Bonds and undertakings	3,318	12,924	11,986	62	39	28,329
6. Contempt motions	52	171	384	462	14	1,083
7. Hearings on sufficiency of service	185	200	892	58	13	1,348
8. Change of name	125	455	447	249	32	1,308
9. Orders of attachment issued	0	7	409	0	9	425
10. Warrants of seizure issued	70	0	587	83	0	740
11. Orders of arrest issued	1	0	0	0	0	1
12. Receivers appointed	0	4	1	0	0	5
13. Miscellaneous orders	8,480	4,928	39,284	8,983	939	62,614
Total Ex Parte Orders	18,438	35,917	75,882	14,559	1,956	146,752

Table 47

THE DISTRICT COURTS AND THE COURTS IN CITIES OUTSIDE THE CITY OF NEW YORK — CIVIL TERMS
Dispositions of Actions and Summary Proceedings
Small Claims Received and Disposed
by District and Judicial Department

District and Department	Dispositions							Mistrials	Small Claims	
					Trials					
	Discontinued	Dismissed	Default	Other	For Plaintiff	For Defendant	Total		In	Out
District 3	1,520	555	3,005	1,142	2,079	150	8,451	12	2,227	2,762
District 4	261	163	458	144	97	11	1,134	5	1,352	1,257
District 5	102	506	672	1,603	88	18	2,989	63	3,500	3,590
District 6	303	29	1,243	37	56	9	1,677	2	1,729	1,466
District 7	147	561	1,956	1,023	105	23	3,815	2	3,239	2,922
District 8	598	160	3,177	1,740	211	50	5,936	14	6,164	6,239
District 9	2,549	689	7,212	2,282	805	70	13,607	21	5,007	4,582
District 10	10,219	6,260	11,007	12,214	860	192	40,752	285	24,110	23,644
Department 2	12,768	6,949	18,219	14,496	1,665	262	54,359	306	29,117	28,226
Department 3	2,084	747	4,706	1,323	2,232	170	11,262	19	5,308	5,485
Department 4	847	1,227	5,805	4,366	404	91	12,740	79	12,903	12,751
Total Outside of NYC	15,699	8,923	28,730	20,185	4,301	523	78,361	404	47,328	46,462

NOTE: The following city courts are delinquent in reporting for 1979: District 4 — Saratoga Springs; District 5 — Watertown; District 6 — Cortland and District 8 — Olean. The reporting is incomplete from Lockport in District 8.

Table 48

THE SURROGATES' COURTS

Proceedings by Type and by Judicial Department, District and County

Jan. 1, 1979 through Dec. 30, 1979

County	Probate Proceedings								Administration Proceedings		Accounting Proceedings[5]			Guardianship Proceedings		Adoption Proceedings	Miscellaneous	
				Wills Admitted Where Objections Filed														
	Petitions for Probate of Wills	Wills Admitted to Probate Where No Objections Filed	Wills Rejected After Inquiry (1408 SCPA)	Objections Withdrawn, Settled or Dismissed		After Trial of Objections	Wills Rejected After Trial of Objections	Letters Issued Upon Wills	Letters of Administration Granted	Affidavits Filed for Settlement of Small Estates	Voluntary Accountings Filed	Petitions for Compulsory Accounting	Decrees on Accounting[1]	Letters of Guardianship Granted[2]	Contested Guardianship Trials	Orders of Adoptions Granted[3]	Orders of Compromise in Death Actions	Other Contested Matters Tried
				Before Trial	During Trial													
FIRST DEPT																		
1. Bronx	1,803	1,235	0	27	0	0	1	1,295	873	492	590	34	196	375	6	154	62	85
New York	3,634	2,901	0	39	3	1	0	4,575	1,360	505	988	102	847	268	0	188	87	4
Total 1st Department	5,437	4,136	0	66	3	1	1	5,870	2,233	997	1,578	136	1,043	643	6	342	149	89
SECOND DEPT																		
2. Kings	2,348	2,289	14	31	5	0	1	2,727	1,728	1,089	473	117	307	999	0	282	358	0
Richmond	470	434	0	2	3	5	2	460	187	152	49	12	38	100	4	55	25	45
9. Dutchess	614	514	3	3	0	0	0	614	193	121	168	11	107	59	0	6	35	15
Orange	583	588	0	0	0	0	0	663	177	43	351	7	74	68	1	7	18	0
Putnam	274	269	0	0	0	0	0	322	90	33	36	7	39	65	0	12	13	43
Rockland	325	299	0	2	0	0	0	356	128	109	39	7	18	119	0	49	18	1
Westchester	2,068	2,271	1	13	0	3	0	2,583	530	265	462	34	234	304	0	69	45	0
10. Nassau	2,862	2,739	0	15	2	1	0	2,997	801	404	1,174	39	233	667	0	545	128	36
Suffolk	2,009	180	0	20	2	1	0	2,139	695	354	176	32	152	353	0	250	62	62
11. Queens	3,127	3,086	4	5	0	18	0	3,597	1,377	991	332	63	130	316	4	192	168	0
Total 2nd Department	14,680	12,669	22	91	12	28	3	16,508	5,906	3,561	3,260	329	1,392	3,050	9	1,467	870	262
THIRD DEPT																		
3. Albany	810	837	0	3	0	0	0	842	244	228	247	10	193	98	0	92	26	0
Columbia	203	180	0	0	0	0	0	203	47	50	28	2	29	40	0	2	12	4
Greene	151	164	0	0	0	1	0	187	24	101	81	4	11	13	0	0	3	1
Rensselaer	360	356	1	2	2	0	0	431	125	122	21	4	80	32	0	52	13	6
Schoharie	81	75	0	0	0	1	84	75	16	22	18	4	18	3	0	0	1	0
Sullivan	259	232	0	0	0	0	1	254	72	33	37	9	22	16	0	0	8	9
Ulster	495	452	0	0	0	0	0	464	169	99	114	2	104	49	0	55	9	1
4. Clinton	138	138	0	0	0	1	0	148	38	57	65	0	14	12	0	45	4	5
Essex	126	118	1	1	0	0	0	124	41	34	22	2	19	9	0	0	7	1
Franklin	119	128	0	2	0	0	0	130	43	37	52	0	33	8	0	34	13	2
Fulton	188	166	0	1	0	0	0	188	52	33	32	0	26	8	0	2	7	0
Hamilton	26	25	1	0	0	0	0	29	7	6	25	0	8	0	0	0	0	1
Montgomery	207	206	0	1	1	0	0	220	61	38	86	1	81	3	0	11	2	0
St. Lawrence	257	225	0	4	1	0	0	273	80	79	131	2	92	30	0	97	7	1,195
Saratoga	297	292	0	2	0	0	0	319	94	56	113	7	85	32	0	78	11	2
Schenectady	503	488	0	14	0	0	0	551	151	100	114	4	137	61	0	31	9	36
Warren	194	198	0	1	0	0	0	215	46	24	164	0	151	15	0	11	5	3
Washington	189	169	0	0	0	0	0	180	45	19	12	1	23	13	0	2	6	0
6. Broome	507	447	0	0	0	0	0	544	112	70	172	3	144	53	0	0	18	0
Chemung	331	317	0	0	0	0	0	340	56	45	99	4	94	10	0	0	1	1
Chenango	169	159	0	1	0	0	0	164	46	31	49	3	39	15	0	0	4	3
Cortland	150	150	0	0	0	0	0	151	45	17	34	0	37	10	0	0	3	0
Delaware	203	207	0	1	0	1	0	216	37	47	34	8	63	14	4	0	3	26
Madison	199	188	0	2	1	0	0	203	52	24	40	3	24	20	0	0	3	0
Otsego	203	207	0	0	0	0	0	232	47	25	64	1	60	8	0	5	2	1
Schuyler	61	60	0	0	0	0	0	65	15	13	17	0	24	6	0	0	0	0
Tioga	111	103	0	0	0	0	0	117	32	17	16	2	14	6	0	0	2	0
Tompkins	216	184	0	0	0	0	0	188	47	29	208	1	32	13	0	0	1	0
Total 3rd Department	6,853	6,471	3	35	5	4	84	7,053	1,844	1,456	2,099	77	1,657	597	4	517	180	1,297
FOURTH DEPT																		
5. Herkimer	250	247	0	0	0	0	0	257	63	36	60	1	54	19	0	0	3	0
Jefferson	256	251	0	0	1	0	0	276	67	23	45	15	40	17	0	0	0	10
Lewis	107	73	0	0	0	0	0	82	31	19	24	3	11	10	0	0	3	0
Oneida	712	792	0	5	0	0	1	842	213	71	110	2	95	64	0	113	8	0
Onondaga	1,398	1,383	0	1	0	0	0	1,601	335	274	425	10	694	116	1	0	37	108
Oswego	254	255	0	0	0	0	0	270	64	45	136	0	96	34	0	16	8	7
7. Cayuga	287	282	0	1	0	0	0	290	59	69	144	6	98	26	1	36	12	22
Livingston	164	161	0	0	0	0	0	166	35	301	30	3	37	13	0	0	2	0
Monroe	2,171	2,039	0	25	2	0	0	2,379	379	453	560	8	285	408	7	135	22	76
Ontario	371	358	0	0	0	0	0	368	83	48	78	3	71	28	0	20	15	0
Seneca	120	115	0	0	0	0	0	113	22	10	26	6	15	10	0	0	3	9
Steuben	334	335	0	7	3	0	0	346	90	55	80	3	66	78	0	4	5	2
Wayne	521	295	0	0	0	0	0	311	34	59	47	0	92	28	0	45	10	0
Yates	110	110	0	0	0	0	0	100	22	8	31	2	3	0	0	0	1	0
8. Allegany	163	163	0	0	0	0	0	164	67	19	79	0	79	13	0	0	0	0
Cattaraugus	317	314	2	1	0	0	0	323	87	36	139	1	139	16	0	1	7	12
Chautauqua	555	555	0	2	0	0	0	571	107	103	98	3	89	30	0	73	14	7
Erie	3,734	3,074	16	17	7	2	0	3,214	798	1,083	1,397	24	624	618	9	341	88	268
Genesee	194	199	0	0	0	0	0	206	35	18	36	0	35	0	0	15	10	0
Niagara	734	602	0	0	0	0	0	706	175	147	0	0	355	67	0	6	0	0
Orleans	121	125	0	0	0	0	0	127	32	17	18	1	19	8	0	0	13	0
Wyoming	177	176	0	0	0	0	0	190	30	30	53	2	47	18	2	1	2	1
Total 4th Department	13,050	11,744	18	59	13	2	1	12,902	2,828	2,924	3,619	93	3,044	1,621	20	806	263	522
Total State	40,020	35,020	43	251	33	35	89	42,333	12,811	8,938	10,552	635	7,136	5,911	39	3,132	1,462	2,170

[5] Includes accountings filed in small estates.

[1] There were 5,060 decrees on accountings where no objections were filed and 652 where objections were withdrawn, settled or dismissed.
511 before trial, 45 during trial and 96 after trial.

[2] In addition, 14 letters of guardianship were denied.

[3] In addition, 65 petitions for adoption were denied, dismissed or withdrawn.

Table 49 (Partial)

FAMILY COURT
Original and Supplementary Petitions
Petitions Added, Deducted and Actively Pending by Type of Proceeding[a]

Jan. 1, 1979 through Dec. 30, 1979[b]

A. New York City[c]

Original Case Prefix	Type of Proceeding	Petitions Added During Period	Petitions Deducted During Period			Petitions Actively Pending At End Of Period
			Withdrawn or Dismissed	Other Deductions	Total	
B	Permanent Neglect	760	79	936	1,015	268
N	Child Protective – Neglect	2,499	806	3,982	4,788	1,497
N	Child Protective – Abuse	756	217	1,010	1,227	273
D	Juvenile Delinquency	11,100	5,716	10,147	15,863	3,050
S	Person in Need of Supervision	4,776	2,619	3,967	6,586	830
A	Adoption	813	27	453	480	337
G	Guardianship	246	105	265	370	80
R	Supreme Court Referral	88	31	53	84	13
V	Custody of Minors	4,772	1,885	1,890	3,775	817
K	Foster Care Review	1,470	153	1,856	2,009	341
L	Approval Foster Care Placement	3,637	116	3,166	3,282	878
H	Physically Handicapped	1,195	49	1,110	1,159	201
Q	Mental Defective	0	14	4	18	0
O	Family Offense	7,990	4,992	3,151	8,143	755
P	Paternity (Non-ADC)	3,471	2,025	4,323	6,348	899
P	Paternity (ADC)	16,848	6,664	8,032	14,696	3,180
F	Support (Non-ADC)	6,199	3,925	5,370	9,295	1,003
F	Support (ADC)	5,638	1,912	2,159	4,071	841
U	Uniform Support of Dependent's Law	6,612	3,146	3,971	7,117	834
M	Consent to Marry	332	33	105	138	0
—	Supplementary (Viols./Mods. of Orders/Disps.)	20,414	6,923	12,511	19,434	2,556
C,W	Other Proceedings	107	213	41	254	0
	Total	99,723	41,650	68,502	110,152	18,653

B. Outside New York City

Original Case Prefix	Type of Proceedings	Petitions Added During Period	Petitions Deducted During Period			Petitions Actively Pending At End of Period
			Withdrawn or Dismissed	Other Deductions	Total	
B	Permanent Neglect	532	183	296	479	247
N	Child Protective – Neglect	3,715	941	3,764	4,705	997
N	Child Protective – Abuse	717	135	608	743	251
D	Juvenile Delinquency	14,367	4,226	11,643	15,869	2,751
S	Person in Need of Supervision	8,196	2,315	7,464	9,779	1,605
A	Adoption	3,086	83	2,639	2,722	755
G	Guardianship	347	67	206	273	113
R	Supreme Court Referral	1,599	303	1,142	1,445	266
V	Custody of Minors	7,774	2,689	4,383	7,072	1,278
K	Foster Care Review	2,728	86	2,421	2,507	295
L	Approval Foster Care Placement	4,226	68	3,763	3,831	346
H	Physically Handicapped	9,994	51	8,691	8,742	477
Q	Mental Defective	7	7	6	13	0
O	Family Offense	11,812	6,157	6,558	12,715	956
P	Paternity (Non-ADC)	2,833	727	2,441	3,168	504
P	Paternity (ADC)	10,739	3,171	9,283	12,454	1,863
F	Support (Non-ADC)	14,651	5,731	9,922	16,653	1,985
F	Support (ADC)	12,150	5,021	9,115	14,136	1,202
U	Uniform Support of Dependent's Law	17,818	3,496	12,898	16,394	1,370
M	Consent to Marry	180	13	121	134	5
—	Supplementary (Viols./Mods. of Orders/Disps.)	88,474	18,934	66,264	85,198	7,594
C,W	Other Proceedings	4,077	252	1,871	2,123	309
	Total	220,022	55,656	165,499	221,155	25,169

Note: All footnotes appear at the end of this table.

Table 49 (Concluded)

C. Statewide

Original Case Prefix	Type of Proceedings	Petitions Added During Period	Petitions Deducted During Period			Petitions Actively Pending At End of Period
			With-Drawn or Dismissed	Other De-Deductions	Total	
B	Permanent Neglect	1,292	262	1,232	1,494	515
N	Child Protective — Neglect	6,214	1,747	7,746	9,493	2,494
N	Child Protective — Abuse	1,473	352	1,618	1,970	524
D	Juvenile Delinquency	25,467	9,942	21,790	31,732	5,801
S	Person in Need of Supervision	12,972	4,934	11,431	16,365	2,435
A	Adoption	3,899	110	3,092	3,202	1,092
G	Guardianship	593	172	471	643	193
R	Supreme Court Referral	1,687	334	1,195	1,529	279
V	Custody of Minors	12,546	4,574	6,273	10,847	2,095
K	Foster Care Review	4,198	239	4,277	4,516	636
L	Approval Foster Care Placement	7,863	184	6,929	7,113	1,224
H	Physically Handicapped	11,189	100	9,801	9,901	678
Q	Mental Defective	7	21	10	31	0
O	Family Offense	19,802	11,149	9,709	20,858	1,711
P	Paternity (Non-ADC)	6,304	2,752	6,764	9,516	1,403
P	Paternity (ADC)	27,587	9,835	17,315	27,150	5,043
F	Support (Non-ADC)	20,850	10,656	15,292	25,948	2,988
F	Support (ADC)	17,788	6,933	11,274	18,207	2,043
U	Uniform Support of Dependent's Law	24,430	6,642	16,869	23,511	2,204
M	Consent to Marry	512	46	226	272	5
—	Supplementary (Viols./Mods. of Orders/Disps.)	108,888	25,857	78,775	104,632	10,150
C, W	Other Proceedings	4,184	465	1,912	2,377	309
	Total	319,745	97,306	234,001	331,307	43,882

[a]During 1979 a new statistical reporting procedure was tested in several localities throughout the state. While this procedure collected information concerning petitions returned to the active calendar and warrants returned or vacated, it does not provide deduction information by type of proceeding. The amounts shown for each type of proceeding for petitions added, petitions withdrawn, dismissed and other deductions include for the test localities an estimate based on several sample weeks of court activity. This test involves the following counties: Genesee, Nassau, New York, New York Foster Care Review (city wide), Onondaga, Rensselaer, St. Lawrence, Westchester.

[b]Weekly reporting periods began on the first Monday of one year and ended on the Sunday preceding the first Monday of the following year.

[c]This table does not include data from Queens County for the month of December..

Table 50

FAMILY COURT

Court Findings in Child Protective Proceedings, by Sex

Jan. 1, 1979 through Dec. 30, 1979

Region County	Boys							Girls						
		Court Findings at Dispositional Hearing				Court Findings Based on			Court Findings at Dispositional Hearing				Court Findings Based on	
	Total	Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties	Total	Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	2,405	116	1,221	61	1,007	983	1,422	2,557	220	1,179	66	1,092	1,017	1,540
Total New York City	846	71	484	42	249	416	430	835	96	463	39	237	418	417
New York	308	18	202	8	80	179	129	296	26	174	13	83	163	133
Kings	193	20	96	29	48	71	122	202	26	113	20	43	69	133
Queens	118	18	67	.....	33	53	65	121	27	62	.....	32	70	51
Bronx	181	15	87	5	74	91	90	177	16	87	6	68	95	82
Richmond	46	.....	32	.....	14	22	24	39	1	27	.....	11	21	18
Total Upstate	1,559	45	737	19	758	567	992	1,722	124	716	27	855	599	1,123
Albany	25	1	23	.....	1	25	.....	25	1	24	.....	.....	25	.....
Allegany	5	.....	2	.....	3	3	2	9	.....	2	.....	7	3	6
Broome	44	.....	14	.....	30	22	22	58	3	16	.....	39	13	40
Cattaraugus	17	.....	7	.....	10	5	12	19	.....	6	.....	13	5	14
Cayuga	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chautauqua	47	.....	7	.....	40	6	41	64	.....	13	.....	51	10	54
Chemung	27	.....	14	.....	13	.....	27	22	.....	20	.....	2	.....	22
Chenango	3	.....	2	.....	1	1	2	5	.....	4	.....	1	3	2
Clinton	18	.....	5	11	2	16	2	12	3	4	3	2	10	2
Columbia	4	.....	1	.....	3	.....	4	8	1	1	1	5	2	6
Cortland	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Delaware	16	.....	7	.....	9	4	12	18	3	8	.....	7	4	14
Dutchess	38	3	7	.....	28	8	30	54	9	15	.....	30	18	36
Erie	231	2	144	1	89	126	105	295	9	162	.....	124	162	133
Essex	3	.....	2	.....	1	2	1	2	.....	.....	.....	2	.....	2
Franklin	20	.....	11	.....	9	8	12	22	1	7	.....	14	8	14
Fulton	15	.....	1	1	13	.....	15	19	.....	4	2	13	1	18
Genesee	20	.....	5	.....	15	2	18	27	2	13	.....	12	4	23
Greene	13	1	5	.....	7	4	9	12	1	4	.....	7	2	10
Hamilton	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Herkimer	9	.....	4	.....	5	6	3	7	.....	4	.....	3	5	2
Jefferson	21	.....	4	.....	17	7	14	15	1	4	.....	10	8	7
Lewis	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Livingston	2	.....	1	.....	1	.....	2	10	.....	3	.....	7	.....	10
Madison	9	.....	9	.....	.....	4	5	6	.....	6	.....	.....	5	1
Monroe	226	20	95	3	108	120	106	221	44	67	2	108	113	108
Montgomery	3	.....	1	.....	2	.....	3	1	.....	1	.....	.....	1	.....
Nassau	130	.....	97	2	31	70	60	150	.....	104	9	37	69	81
Niagara	44	2	26	1	15	9	35	33	3	11	2	17	9	24
Oneida	19	4	8	.....	7	8	11	13	2	.....	.....	11	2	11
Onondaga	69	.....	30	.....	39	9	65	89	7	34	.....	48	4	85
Ontario	14	3	10	.....	1	13	1	12	2	9	.....	1	7	5
Orange	19	1	4	.....	14	7	12	32	.....	9	4	19	14	18
Orleans	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Oswego	15	.....	8	.....	7	3	12	15	.....	4	.....	11	9	11
Otsego	2	.....	.....	.....	2	.....	2	4	.....	.....	.....	4	.....	2
Putnam	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Rensselaer	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Rockland	5	.....	.....	.....	5	.....	5	17	3	2	.....	12	1	16
St. Lawrence	17	.....	11	.....	6	7	10	24	4	7	.....	13	6	18
Saratoga	11	.....	5	.....	6	1	10	18	2	7	.....	9	6	12
Schenectady	26	2	22	.....	2	4	22	25	4	11	2	8	.....	25
Schoharie	8	.....	3	.....	5	2	6	5	.....	1	.....	4	1	4
Schuyler	3	.....	.....	.....	3	.....	3	2	.....	.....	.....	2	.....	2
Seneca	4	.....	1	.....	3	1	3	11	1	4	.....	6	5	6
Steuben	17	.....	2	.....	15	2	15	21	.....	2	.....	19	2	19
Suffolk	116	2	29	.....	85	15	101	122	10	39	.....	73	8	104
Sullivan	19	1	5	.....	13	6	13	25	1	5	.....	19	7	18
Tioga	7	.....	1	.....	6	.....	7	11	1	5	.....	5	3	8
Tompkins	11	.....	4	.....	7	4	7	9	.....	5	.....	4	.....	9
Ulster	20	.....	9	.....	11	3	17	26	.....	13	1	12	7	19
Warren	20	.....	13	.....	7	3	17	15	.....	10	.....	5	.....	15
Washington	22	.....	21	.....	1	16	6	8	2	5	.....	1	3	5
Wayne	26	1	15	.....	10	14	12	23	2	12	.....	9	12	11
Westchester	81	2	41	.....	38	6	75	63	1	25	1	35	11	52
Wyoming	18	.....	1	.....	17	.....	18	15	1	.....	.....	14	1	14
Yates	.....	.....	.....	.....	.....	.....	.....	3	.....	3	.....	.....	.....	3

Table 51

FAMILY COURT

The Age of Children in Child Protective Proceedings Involving Child Abuse (Boys Only)
Child's Age When Petition Filed (Last Birthday)

Jan. 1, 1979 through Dec. 30, 1979

Region County	Total	Under 1	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16 Or Over	Not Known
Total New York State	504	73	40	40	31	25	25	25	17	35	36	27	30	12	25	27	15	13	8
Total New York City	277	36	24	27	18	16	13	14	13	16	16	17	16	5	13	13	7	6	7
New York	107	16	12	12	4	5	2	7	5	6	3	9	9	1	6	6	2	2	
Kings	88	6	7	5	6	7	7	3	4	6	7	5	3	3	4	5	3	3	4
Queens	20	4	1	1	4	1	1	1		1	2				1		1		2
Bronx	58	9	4	9	4	3	2	3	3	3	4	3	3	1	2	2	1	1	1
Richmond	4	1					1		1				1						
Total Upstate	227	37	16	13	13	9	12	11	4	19	20	10	14	7	12	14	8	7	1
Albany	1						1												
Allegany	4			1		1				1	1								
Broome	2	1					1												
Cattaraugus	2									1							1		
Cayuga																			
Chautauqua																			
Chemung																			
Chenango																			
Clinton	14	4	2							2		1		1	2			2	
Columbia	2	1				1													
Cortland																			
Delaware																			
Dutchess	6	2		1	1			1									1		
Erie	43	7	5	3	1	1	4	2		1	5	3	3		3	3	2		
Essex																			
Franklin																			
Fulton	3		1	1	1														
Genesee	1	1																	
Greene	4	2			1							1							
Hamilton																			
Herkimer																			
Jefferson	2	1													1				
Lewis																			
Livingston	1															1			
Madison	1													1					
Monroe	44	10	1	2	5	1	1	4		4	3	1	3	1	2	2	2	2	
Montgomery																			
Nassau	7				1					1		1	1		1		1	1	
Niagara	7	2					1						1		1	2			
Oneida	7				1	1					2		1	1	1				
Onondaga	7	2	1							1	1	1		1					
Ontario	3				1					2									
Orange	13	1	2		1		3				2	1				2		1	
Orleans																			
Oswego																			
Otsego																			
Putnam																			
Rensselaer																			
Rockland	3							1		1						1			
St. Lawrence																			
Saratoga	2					1		1											
Schenectady	6	2							1	1	1					1			
Schoharie	1									1									
Schuyler																			
Seneca																			
Steuben	1							1											
Suffolk	7			1		2			1	1	1				1				
Sullivan	3								1				1			1			
Tioga																			
Tompkins																			
Ulster	2											1				1			
Warren	1	1																	
Washington	1			1															
Wayne	2		1	1															
Westchester	18		3	2		1	1	1	1	1	2		3	1			1	1	
Wyoming	6									1	2		1	1					1
Yates																			

Table 52

FAMILY COURT

The Age of Children in Child Protective Proceedings Involving Child Abuse (Girls Only)
Child's Age When Petition Filed (Last Birthday)

Jan. 1, 1979 through Dec. 30, 1979

Region County	Total	Under 1	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16 Or Over	Not Known
Total New York State	692	46	55	43	27	26	40	26	31	38	32	34	34	32	55	48	58	55	12
Total New York City	300	23	30	25	16	17	21	12	15	14	14	16	15	8	15	14	19	16	10
New York	113	15	13	14	7	10	7	4	11	4	5	2	3	2	5	3	2	4	2
Kings	80	2	3	6	5	6	2	2	1	7	7	6	4	3	4	4	8	7	3
Queens	33	4	3	1	.	.	2	.	.	1	.	2	3	1	2	4	3	5	2
Bronx	69	2	11	4	4	1	10	6	3	2	2	5	5	1	3	3	5	.	2
Richmond	5	.	.	.	.	.	.	.	.	.	.	1	.	1	1	.	1	.	1
Total Upstate	392	23	25	18	11	9	19	14	16	24	18	18	19	24	40	34	34	39	2
Albany	1	.	1	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Allegany	4	1	.	.	.	.	.	.	.	.	.	.	.	1	.	.	1	1	.
Broome	13	1	.	.	.	.	.	1	1	1	.	.	.	1	1	3	2	2	.
Cattaraugus	3	.	.	.	.	.	.	.	.	.	.	.	.	.	1	1	1	.	.
Cayuga	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Chautauqua	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Chemung	3	.	.	.	.	.	.	.	.	.	.	.	.	.	2	.	1	.	.
Chenango	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Clinton	7	.	.	.	.	.	.	.	.	2	.	.	.	.	.	2	3	.	.
Columbia	7	.	1	.	1	1	.	.	1	.	1	.	1	.	.	1	.	.	.
Cortland	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Delaware	4	.	.	.	.	.	.	.	.	.	.	.	.	1	.	.	2	1	.
Dutchess	14	.	2	.	.	.	.	.	.	2	.	2	.	.	4	1	1	2	.
Erie	70	5	4	1	3	3	2	3	4	10	6	1	4	7	4	3	4	6	.
Essex	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Franklin	2	.	.	.	.	.	.	.	.	.	.	.	.	1	.	.	.	1	.
Fulton	8	.	1	.	2	.	.	2	.	.	.	.	.	.	3	.	.	.	.
Genesee	7	.	1	1	.	.	.	1	.	1	1	.	.	1	.	.	1	.	.
Greene	3	.	.	.	1	.	.	.	1	.	1	.	.	.	.	.	.	.	.
Hamilton	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Herkimer	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Jefferson	1	.	.	1	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Lewis	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Livingston	5	.	.	.	1	.	1	1	.	.	.	.	1	.	.	.	.	1	.
Madison	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Monroe	69	6	6	4	3	1	5	2	3	1	3	6	3	3	4	6	7	5	1
Montgomery	1	.	.	1	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Nassau	19	1	1	.	.	.	.	.	.	1	.	1	1	3	4	3	1	3	.
Niagara	6	.	.	.	.	.	.	.	1	.	.	.	1	.	1	1	2	.	.
Oneida	4	.	.	.	.	.	1	.	.	.	1	1	.	.	.	.	1	.	.
Onondaga	16	2	2	1	.	.	.	.	.	1	.	1	.	.	4	4	.	1	.
Ontario	3	.	.	1	.	.	2	.	.	.	.	.	.	.	.	.	.	.	.
Orange	24	1	.	1	.	2	2	1	2	.	1	1	2	2	1	2	3	3	.
Orleans	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Oswego	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Otsego	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Putnam	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Rensselaer	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Rockland	8	.	.	1	.	.	1	1	.	.	.	1	.	1	1	.	1	1	.
St. Lawrence	6	1	.	3	.	.	.	.	.	.	.	.	1	.	1	.	.	.	.
Saratoga	3	.	.	.	.	.	.	.	.	1	.	1	.	1	.	.	.	.	.
Schenectady	13	1	1	.	.	.	1	.	.	.	1	.	3	.	1	3	1	1	.
Schoharie	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Schuyler	1	.	.	.	.	.	.	.	.	.	.	.	.	.	1	.	.	.	.
Seneca	1	.	.	.	.	.	.	.	1	.	.	.	.	.	.	.	.	.	.
Steuben	6	.	.	.	.	.	3	.	.	.	.	.	.	1	.	.	1	1	.
Suffolk	19	1	2	3	.	1	1	1	.	.	.	1	1	.	2	1	3	2	.
Sullivan	7	.	1	.	.	.	.	.	.	.	1	.	.	.	.	1	2	2	.
Tioga	1	.	.	.	.	.	.	.	.	.	1	.	.	.	.	.	.	.	.
Tompkins	1	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Ulster	6	1	.	.	.	.	.	1	.	.	1	.	.	.	1	1	1	.	.
Warren	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Washington	3	.	1	.	.	.	.	.	.	1	.	.	.	.	.	.	.	1	.
Wayne	3	1	.	.	.	.	.	.	.	.	.	.	.	.	1	.	.	1	.
Westchester	18	1	1	.	.	1	.	.	2	2	.	1	.	.	2	1	.	4	.
Wyoming	5	.	.	.	.	.	.	.	.	.	.	1	1	2	.	.	.	.	1
Yates	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.

Table 53

FAMILY COURT

Reasons for Petitions in Child Protective Proceedings Involving Child Abuse (Boys Only)

Jan. 1, 1979 through Dec. 30, 1979

Region County	Total Reasons (Child Abuse Only)*	REASONS FOR PETITIONS													
		Child Abuse			Neglected Child										
		Physical Abuse	Risk of Physical Injury	Sex Offense Against Child	Impairment of Mental, Emotional Or Physical Health	Inadequate Food, Shelter Or Clothing	Inadequate Educational Care	Inadequate Medical or Surgical Care	Abandonment or Desertion	Parental Use of Drugs	Parental Alcoholism	Parental Sexual Misconduct	Parental Mental Illness	Parental Fighting	Other
Total New York State	172	116	41	15	46	13	5	6	5	6	11	2	2	...	...
Total New York City	118	83	32	3	29	9	4	5	5	5	11	2	2	...	...
New York	46	23	22	1	3	1	3	1	4	...	4	...	1	...	...
Kings	40	35	4	1	22	7	...	4	1	4	6	...	1	...	...
Queens	18	15	2	1	...	...	...	...	...	...	...	...	...	...	...
Bronx	14	10	4	...	...	...	...	...	...	1	1	2	...	...	...
Richmond	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Total Upstate	54	33	9	12	17	4	1	1	...	1	...	...	...	...	...
Albany	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Allegany	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Broome	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Clinton	5	...	5	...	6	...	...	...	...	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Dutchess	3	2	...	1	...	...	...	...	...	...	...	...	...	...	...
Erie	2	2	...	...	...	1	...	1	...	1	...	...	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	1	1	...	...	1	...	...	...	...	...	...	...	...	...	...
Genesee	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Greene	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Jefferson	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Monroe	23	13	4	6	7	1	...	...	...	...	...	...	...	...	...
Montgomery	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	...	...	...	...	2	...	...	...	...	...	...	...	...	...	...
Niagara	3	3	...	...	...	1	...	...	...	...	...	...	...	...	...
Oneida	4	1	...	3	...	...	...	...	...	...	...	...	...	...	...
Onondaga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Ontario	2	1	...	1	1	1	1	...	...	...	...	...	...	...	...
Orange	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Saratoga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schenectady	2	2	...	...	...	...	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Suffolk	2	2	...	...	...	...	...	...	...	...	...	...	...	...	...
Sullivan	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Ulster	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Warren	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Westchester	2	2	...	...	...	...	...	...	...	...	...	...	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...

*Due to the reporting of multiple reasons for petitions, the number of reasons exceeds the number of petitions reported as initially disposed.

Table 54

FAMILY COURT

Reasons for Petitions in Child Protective Proceedings Involving Child Abuse (Girls Only)

Jan. 1, 1979 through Dec. 30, 1979

Region County	Total Reasons (Child Abuse Only)*	REASONS FOR PETITIONS													
		Child Abuse			Neglected Child										
		Physical Abuse	Risk of Physical Injury	Sex Offense Against Child	Impairment of Mental, Emotional Or Physical Health (Etc.)	Inadequate Food, Shelter Or Clothing	Inadequate Educational Care	Inadequate Medical or Surgical Care	Abandonment or Desertion	Parental Use of Drugs	Parental Alcoholism	Parental Sexual Misconduct	Parental Mental Illness	Parental Fighting	Other
Total New York State	307	147	49	111	47	10	4	4			9	5	2	1	
Total New York City	155	92	38	25	19	6	4	3			9	3	2		
New York	62	32	24	6	3	1	3	1			3		1		
Kings	47	30	7	10	13	5	1				6		1		
Queens	27	21	1	5											
Bronx	18	9	5	3	3							3			
Richmond	1			1											
Total Upstate	152	55	11	86	28	4		1				2		1	
Albany	1	1													
Allegany															
Broome	3			3											
Cattaraugus															
Cayuga															
Chautauqua															
Chemung															
Chenango															
Clinton	5			5	1							1			
Columbia	2	1		1											
Cortland															
Delaware	1			1	2										
Dutchess	9			9											
Erie	9	6		3											
Essex															
Franklin	1			1											
Fulton	3	2	1		1			1							
Genesee	3	1		2											
Greene	1			1											
Hamilton															
Herkimer															
Jefferson	1	1													
Lewis															
Livingston															
Madison															
Monroe	54	23	6	25	13										
Montgomery															
Nassau	5	1		4	7	2									
Niagara	5	3		2		2									
Oneida	2			2											
Onondaga	7	1		6											
Ontario	2			2											
Orange	6	2	2	2											
Orleans															
Oswego															
Otsego															
Putnam															
Rensselaer															
Rockland	3			3											
St. Lawrence	3	2		1	1									1	
Saratoga	2			2											
Schenectady	4	1		3	2										
Schoharie															
Schuyler															
Seneca	1			1								1			
Steuben															
Suffolk	9	5	2	2	1										
Sullivan	1			1											
Tioga	1			1											
Tompkins															
Ulster	1	1													
Warren															
Washington	2	1		1											
Wayne	2	1		1											
Westchester	2	1		1											
Wyoming	1	1													
Yates															

*Due to the reporting of multiple reasons for petitions, the number of reasons exceeds the number of petitions reported as initially disposed.

Table 55

FAMILY COURT
Child Protective Proceedings Involving Child Abuse (Boys Only)
Types of Petitioners

Jan. 1, 1979 through Dec. 30, 1979

Region County	Total	PETITION ORIGINATED BY													
		Respondent's Parent	Respondent's Child	Respondent's Spouse or Former Spouse	Other Members of Respondent's Family or Household	Corporation Counsel/ County Attorney	Assistant District Attorney	Police or Peace Officer	Public Social Services Agency	Public Health Agency	Authorized Private Agency	School (On Court's Motion)	Hospital (On Court's Motion)	Private Medical Doctor (On Court's Motion)	Other
Total New York State	504	1	13	1	1	5		5	442	5	27				4
Total New York City	277	1	12			2		3	225	4	27				3
New York	107							1	88	1	16				1
Kings	88		12			2		1	60		11				2
Queens	20								19	1					
Bronx	58	1							55	2					
Richmond	4							1	3						
Total Upstate	227		1	1	1	3		2	217	1					1
Albany	1								1						
Allegany	4								4						
Broome	2								2						
Cattaraugus	2								2						
Cayuga															
Chautauqua															
Chemung															
Chenango															
Clinton	14								14						
Columbia	2								2						
Cortland															
Delaware															
Dutchess	6		1						5						
Erie	43								42						1
Essex															
Franklin															
Fulton	3								3						
Genesee	1								1						
Greene	4								4						
Hamilton															
Herkimer															
Jefferson	2								2						
Lewis															
Livingston	1				1										
Madison	1								1						
Monroe	44								43	1					
Montgomery															
Nassau	7								7						
Niagara	7								7						
Oneida	7								7						
Onondaga	7								7						
Ontario	3								3						
Orange	13								13						
Orleans															
Oswego															
Otsego															
Putnam															
Rensselaer															
Rockland	3								3						
St. Lawrence															
Saratoga	2								2						
Schenectady	6								6						
Schoharie	1								1						
Schuyler															
Seneca															
Steuben	1								1						
Suffolk	7							2	5						
Sullivan	3								3						
Tioga															
Tompkins															
Ulster	2								2						
Warren	1								1						
Washington	1								1						
Wayne	2								2						
Westchester	18					3			15						
Wyoming	6			1					5						
Yates															

Table 56

FAMILY COURT
Child Protective Proceedings Involving Child Abuse (Girls Only)
Types of Petitioners

Jan. 1, 1979 through Dec. 30, 1979

Region County	Total	PETITION ORIGINATED BY													
		Respondent's Parent	Respondent's Child	Respondent's Spouse or Former Spouse	Other Members of Respondent's Family or Household	Corporation Counsel/ County Attorney	Assistant District Attorney	Police or Peace Officer	Public Social Services Agency	Public Health Agency	Authorized Private Agency	School (On Court's Motion)	Hospital (On Court's Motion)	Private Medical Doctor (On Court's Motion)	Other
Total New York State	692	2	2	1	2	6	.....	.....	637	8	26	1	.....	.....	7
Total New York City	300	2	2	.....	.....	1	.....	1	264	4	24	1	.....	.....	2
New York	113	.....	.....	.....	.....	.....	.....	1	103	1	8	.....	.....	.....	1
Kings	80	2	2	.....	.....	1	.....	.....	56	1	16	.....	.....	.....	.....
Queens	33	.....	.....	.....	.....	.....	.....	.....	32	.....	.....	1	.....	.....	.....
Bronx	69	.....	.....	.....	.....	.....	.....	.....	67	2	.....	.....	.....	.....	.....
Richmond	5	.....	.....	.....	.....	.....	.....	.....	4	.....	.....	.....	.....	.....	1
Total Upstate	392	.....	.....	1	2	5	.....	.....	373	4	2	.....	.....	.....	5
Albany	1	.....	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	.....
Allegany	4	.....	.....	.....	.....	.....	.....	.....	4	.....	.....	.....	.....	.....	.....
Broome	13	.....	.....	.....	.....	.....	.....	.....	12	.....	.....	.....	.....	.....	1
Cattaraugus	3	.....	.....	.....	.....	.....	.....	.....	3	.....	.....	.....	.....	.....	.....
Cayuga	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chautauqua	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chemung	3	.....	.....	.....	.....	.....	.....	.....	3	.....	.....	.....	.....	.....	.....
Chenango	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Clinton	7	.....	.....	.....	.....	.....	.....	.....	7	.....	.....	.....	.....	.....	.....
Columbia	7	.....	.....	.....	.....	.....	.....	.....	7	.....	.....	.....	.....	.....	.....
Cortland	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Delaware	4	.....	.....	.....	.....	.....	.....	.....	4	.....	.....	.....	.....	.....	.....
Dutchess	14	.....	.....	.....	.....	.....	.....	.....	13	1	.....	.....	.....	.....	.....
Erie	70	.....	.....	.....	.....	.....	.....	.....	69	.....	.....	.....	.....	.....	1
Essex	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Franklin	2	.....	.....	.....	.....	.....	.....	.....	2	.....	.....	.....	.....	.....	.....
Fulton	8	.....	.....	.....	.....	.....	.....	.....	8	.....	.....	.....	.....	.....	.....
Genesee	7	.....	.....	.....	.....	.....	.....	.....	7	.....	.....	.....	.....	.....	.....
Greene	3	.....	.....	.....	.....	.....	.....	.....	3	.....	.....	.....	.....	.....	.....
Hamilton	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Herkimer	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Jefferson	1	.....	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	.....
Lewis	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Livingston	5	.....	.....	.....	2	.....	.....	.....	1	.....	.....	.....	.....	.....	2
Madison	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Monroe	69	.....	.....	.....	.....	.....	.....	.....	67	2	.....	.....	.....	.....	.....
Montgomery	1	.....	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	.....
Nassau	19	.....	.....	.....	.....	.....	.....	.....	19	.....	.....	.....	.....	.....	.....
Niagara	6	.....	.....	.....	.....	.....	.....	.....	6	.....	.....	.....	.....	.....	.....
Oneida	4	.....	.....	.....	.....	.....	.....	.....	4	.....	.....	.....	.....	.....	.....
Onondaga	16	.....	.....	.....	.....	.....	.....	.....	16	.....	.....	.....	.....	.....	.....
Ontario	3	.....	.....	.....	.....	.....	.....	.....	3	.....	.....	.....	.....	.....	.....
Orange	24	.....	.....	.....	.....	.....	.....	.....	24	.....	.....	.....	.....	.....	.....
Orleans	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Oswego	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Otsego	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Putnam	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Rensselaer	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Rockland	8	.....	.....	.....	.....	.....	.....	.....	8	.....	.....	.....	.....	.....	.....
St. Lawrence	6	.....	.....	.....	.....	.....	.....	.....	6	.....	.....	.....	.....	.....	.....
Saratoga	3	.....	.....	.....	.....	.....	.....	.....	3	.....	.....	.....	.....	.....	.....
Schenectady	13	.....	.....	.....	.....	.....	.....	.....	13	.....	.....	.....	.....	.....	.....
Schoharie	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Schuyler	1	.....	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	.....
Seneca	1	.....	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	.....
Steuben	6	.....	.....	.....	.....	.....	.....	.....	6	.....	.....	.....	.....	.....	.....
Suffolk	19	.....	.....	.....	.....	.....	.....	.....	18	.....	1	.....	.....	.....	.....
Sullivan	7	.....	.....	.....	.....	.....	.....	.....	7	.....	.....	.....	.....	.....	.....
Tioga	1	.....	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	.....
Tompkins	1	.....	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	.....
Ulster	6	.....	.....	.....	.....	.....	.....	.....	6	.....	.....	.....	.....	.....	.....
Warren	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Washington	3	.....	.....	.....	.....	.....	.....	.....	2	.....	.....	.....	.....	.....	1
Wayne	3	.....	.....	.....	.....	.....	.....	.....	3	.....	.....	.....	.....	.....	.....
Westchester	15	.....	.....	.....	.....	5	.....	.....	8	1	1	.....	.....	.....	.....
Wyoming	5	.....	.....	1	.....	.....	.....	.....	4	.....	.....	.....	.....	.....	.....
Yates	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

Table 57

FAMILY COURT
Temporary Removal of Children in Child Protective Proceedings Involving Child Abuse (Boys Only)

Jan. 1, 1979 through Dec. 30, 1979

Region / County	Total*	No Temporary Removal	Temporary Removal		Length of Removal Between Petition and Disposition								
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 Days Or More
Total New York State	504	212	84	274	21	15	6	22	90	59	44	16	1
Total New York City	277	123	17	154	12	9	3	11	43	38	32	6	.....
New York	107	30	11	77	8	3	.....	2	16	26	16	6	.....
Kings	88	67	6	21	2	3	.....	4	2	3	7	.....	.....
Queens	20	3	.....	17	1	2	.....	1	12	1	.....	.....	.....
Bronx	58	22	.....	36	1	1	3	4	11	7	9	.....	.....
Richmond	4	1	.....	3	.....	.....	.....	.....	2	1	.....	.....	.....
Total Upstate	227	89	67	120	9	6	3	11	47	21	12	10	1
Albany	1	.....	.....	1	.....	.....	.....	.....	1	.....	.....	.....	.....
Allegany	4	3	.....	1	.....	1	.....	.....	.....	.....	.....	.....	.....
Broome	2	.....	.....	2	.....	.....	.....	1	.....	1	.....	.....	.....
Cattaraugus	2	1	.....	1	.....	.....	.....	.....	.....	.....	.....	1	.....
Cayuga	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chautauqua	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chemung	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chenango	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Clinton	14	12	.....	2	.....	.....	.....	.....	.....	2	.....	.....	.....
Columbia	2	.....	2	1	.....	.....	.....	.....	.....	1	.....	.....	.....
Cortland	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Delaware	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Dutchess	6	3	3	1	.....	.....	.....	.....	1	.....	.....	.....	.....
Erie	43	8	7	35	5	2	3	.....	23	1	1	.....	.....
Essex	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Franklin	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Fulton	3	.....	3	3	.....	.....	.....	.....	1	.....	7	.....	.....
Genesee	1	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	1
Greene	4	1	2	3	.....	.....	.....	2	1	.....	.....	.....	.....
Hamilton	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Herkimer	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Jefferson	2	1	1	1	1	.....	.....	.....	.....	.....	.....	.....	.....
Lewis	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Livingston	1	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Madison	1	.....	.....	1	1	.....	.....	.....	.....	.....	.....	.....	.....
Monroe	44	17	9	25	.....	.....	.....	1	8	4	6	6	.....
Montgomery	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Nassau	7	3	4	4	.....	.....	.....	.....	1	1	1	1	.....
Niagara	7	2	5	3	.....	.....	.....	1	.....	2	.....	.....	.....
Oneida	7	3	1	3	.....	.....	.....	.....	3	.....	.....	.....	.....
Onondaga	7	3	4	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Ontario	3	1	2	2	.....	.....	.....	.....	1	.....	.....	1	.....
Orange	13	6	.....	7	.....	1	.....	2	2	2	.....	.....	.....
Orleans	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Oswego	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Otsego	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Putnam	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Rensselaer	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Rockland	3	.....	3	3	.....	.....	.....	.....	3	.....	.....	.....	.....
St. Lawrence	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Saratoga	2	.....	.....	2	.....	.....	.....	2	.....	.....	.....	.....	.....
Schenectady	6	2	4	4	.....	.....	.....	.....	1	2	1	.....	.....
Schoharie	1	.....	1	1	.....	.....	.....	.....	.....	1	.....	.....	.....
Schuyler	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Seneca	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Steuben	1	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Suffolk	7	4	2	3	1	.....	.....	1	.....	.....	.....	1	.....
Sullivan	3	3	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Tioga	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Tompkins	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Ulster	2	.....	2	2	.....	.....	.....	.....	.....	2	.....	.....	.....
Warren	1	.....	.....	1	.....	1	.....	.....	.....	.....	.....	.....	.....
Washington	1	.....	.....	1	.....	.....	.....	1	.....	.....	.....	.....	.....
Wayne	2	1	1	1	.....	.....	.....	.....	.....	.....	1	.....	.....
Westchester	18	7	11	5	1	1	.....	.....	1	2	.....	.....	.....
Wyoming	6	6	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Yates	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

*Figures in columns 2, 3, and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 66 such proceedings statewide.

Table 58

FAMILY COURT
Temporary Removal of Children in Child Protective Proceedings Involving Child Abuse (Girls Only)

Jan. 1, 1979 through Dec. 30, 1979

Region County	Total*	No Temporary Removal	Temporary Removal		Length of Removal Between Petition and Disposition								
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 Days Or More
Total New York State	692	301	113	363	38	21	12	23	100	76	72	20	1
Total New York City	300	123	14	173	21	9	4	11	43	40	36	8	1
New York	113	24	7	87	13	5	.....	3	16	25	20	4	1
Kings	80	60	6	18	3	1	.....	2	6	2	4	.....	.....
Queens	33	11	.....	22	1	3	.....	5	10	.....	3	.....	.....
Bronx	69	26	1	43	4	.....	4	1	8	13	9	4	.....
Richmond	5	2	.....	3	.....	.....	.....	.....	3	.....	.....	.....	.....
Total Upstate	392	178	99	190	17	12	8	12	57	36	36	12	.....
Albany	1	.....	.....	1	.....	.....	.....	.....	1	.....	.....	.....	.....
Allegany	4	2	.....	2	.....	2	.....	.....	.....	.....	.....	.....	.....
Broome	13	10	.....	3	.....	.....	.....	3	.....	.....	.....	.....	.....
Cattaraugus	3	1	1	2	.....	.....	1	.....	.....	.....	.....	1	.....
Cayuga	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chautauqua	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chemung	3	.....	3	3	.....	.....	.....	.....	2	1	.....	.....	.....
Chenango	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Clinton	7	4	3	3	.....	.....	.....	.....	3	.....	.....	.....	.....
Columbia	7	2	5	2	.....	.....	.....	.....	2	.....	.....	.....	.....
Cortland	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Delaware	4	2	2	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Dutchess	14	6	6	8	2	.....	.....	.....	.....	4	2	.....	.....
Erie	70	25	1	44	3	4	4	1	22	3	6	1	.....
Essex	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Franklin	2	1	.....	1	.....	.....	.....	.....	1	.....	.....	.....	.....
Fulton	8	1	7	7	2	.....	.....	.....	3	1	1	.....	2
Genesee	7	6	1	1	.....	.....	.....	.....	.....	1	.....	.....	.....
Greene	3	3	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Hamilton	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Herkimer	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Jefferson	1	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Lewis	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Livingston	5	2	3	1	.....	.....	1	.....	.....	.....	.....	.....	.....
Madison	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Monroe	69	32	11	32	.....	1	.....	.....	5	7	14	5	.....
Montgomery	1	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Nassau	19	11	7	8	.....	.....	.....	.....	2	1	2	3	.....
Niagara	6	2	4	3	.....	.....	.....	3	.....	.....	.....	.....	.....
Oneida	4	2	.....	2	.....	.....	.....	.....	2	.....	.....	.....	.....
Onondaga	16	9	6	6	.....	.....	.....	.....	.....	4	2	.....	.....
Ontario	3	3	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Orange	24	12	.....	12	4	3	2	.....	2	1	.....	.....	.....
Orleans	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Oswego	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Otsego	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Putnam	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Rensselaer	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Rockland	8	2	4	6	2	.....	.....	1	3	.....	.....	.....	.....
St. Lawrence	6	3	.....	3	.....	.....	.....	1	.....	.....	2	.....	.....
Saratoga	3	2	.....	1	.....	.....	.....	1	.....	.....	.....	.....	.....
Schenectady	13	6	5	7	.....	.....	.....	2	.....	5	.....	.....	.....
Schoharie	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Schuyler	1	.....	1	1	.....	1	.....	.....	.....	.....	.....	.....	.....
Seneca	1	.....	.....	1	.....	.....	.....	1	.....	.....	1	.....	.....
Steuben	6	5	1	1	.....	.....	.....	.....	1	.....	.....	.....	.....
Suffolk	19	6	11	6	1	.....	.....	.....	3	1	1	.....	.....
Sullivan	7	2	1	5	1	1	.....	.....	1	.....	.....	2	.....
Tioga	1	.....	1	1	.....	.....	.....	.....	.....	.....	1	.....	.....
Tompkins	1	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Ulster	6	.....	4	6	.....	.....	.....	.....	2	3	1	.....	.....
Warren	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Washington	3	2	1	1	1	.....	.....	.....	.....	.....	.....	.....	.....
Wayne	3	1	1	2	.....	.....	.....	.....	.....	1	1	.....	.....
Westchester	15	6	9	6	1	.....	.....	.....	.....	2	2	.....	.....
Wyoming	5	3	.....	2	.....	.....	.....	.....	2	.....	.....	.....	.....
Yates	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

*Figures in columns 2, 3, and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 86 such proceedings statewide.

Table 59

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Boys Only)
Length of Time Between Filing of Petition and Initial Fact-Finding Hearing

Jan. 1, 1979 through Dec. 30, 1979

Region County	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Number of Cases Without IFH
Total New York State	504	98	16	12	20	115	84	43	16	5	95
Total New York City	277	16	4	3	7	66	69	26	7	4	75
New York	107	7	3	...	3	36	24	14	4	...	16
Kings	88	...	...	3	1	12	24	5	1	4	38
Queens	20	1	1	...	1	8	6	2	1	...	...
Bronx	58	6	...	...	2	10	14	5	1	...	20
Richmond	4	2	...	...	...	...	1	...	...	...	1
Total Upstate	227	82	12	9	13	49	15	17	9	1	20
Albany	1	...	1	...	...	...	...	...	...	...	...
Allegany	4	2	...	2	...	...	...	...	...	...	...
Broome	2	...	...	1	...	...	1	...	...	...	...
Cattaraugus	2	...	1	...	...	...	...	...	...	...	1
Cayuga	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...
Chemung	...	...	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...
Clinton	14	...	2	...	...	12	...	...	...	...	...
Columbia	2	...	...	...	...	1	...	...	...	...	1
Cortland	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...
Dutchess	6	1	1	...	...	3	...	...	...	...	1
Erie	43	37	1	...	...	4	...	...	...	1	...
Essex	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...
Fulton	3	...	...	...	...	3	...	...	...	...	...
Genesee	1	...	...	...	1	...	...	...	...	...	...
Greene	4	3	1	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	...	...	...	...	...
Jefferson	2	2	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...
Livingston	1	...	...	...	...	...	...	...	...	...	1
Madison	1	...	1	...	...	...	...	...	...	...	...
Monroe	44	...	...	...	4	8	2	12	7	...	11
Montgomery	...	...	...	...	...	...	...	...	...	...	...
Nassau	7	4	...	1	1	...	...	1	...	...	...
Niagara	7	3	...	2	2	...	...	...	...	...	...
Oneida	7	2	1	...	...	4	1	...	...	...	...
Onondaga	7	...	...	...	...	1	...	8	...	...	3
Ontario	3	1	...	...	1	1	...	...	...	...	...
Orange	13	8	1	...	...	4	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...
Oswego	...	...	1	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...
Rockland	3	3	...	...	...	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...
Saratoga	2	...	...	...	2	...	...	...	...	...	...
Schenectady	6	...	...	...	...	3	3	...	...	...	...
Schoharie	1	...	...	...	...	...	1	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...	...	...
Steuben	1	...	...	...	...	1	...	...	...	...	...
Suffolk	7	1	...	1	...	1	2	1	1	...	...
Sullivan	3	1	1	...	...	...	...	...	...	...	1
Tioga	...	...	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...	...	...
Ulster	2	...	...	...	...	...	2	...	...	...	...
Warren	1	1	...	...	...	...	...	...	...	...	...
Washington	1	...	...	...	1	...	...	...	...	...	...
Wayne	2	...	...	...	...	...	2	...	...	...	...
Westchester	18	8	2	2	1	3	1	...	1	...	...
Wyoming	6	5	...	...	...	...	...	...	...	...	1
Yates	...	...	...	...	...	...	...	...	...	...	...

Table 60

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Girls Only)
Length of Time Between Filing of Petition and Initial Fact-Finding Hearing

Jan. 1, 1979 through Dec. 30, 1979

Region County	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Number of Cases Without IFH
Total New York State	692	138	38	16	32	129	107	74	15	8	135
Total New York City	300	18	5	4	11	64	65	31	7	5	90
New York	113	5	4	1	9	33	28	12	1	.....	20
Kings	80	1	.....	1	.....	16	11	.....	1	5	45
Queens	33	3	1	.....	1	6	10	8	4	.....	.....
Bronx	69	5	.....	2	1	8	16	11	1	.....	25
Richmond	5	4	.....	.....	.....	1	.....	.....	.....	.....	.....
Total Upstate	392	120	33	12	21	65	42	43	8	3	45
Albany	1	.....	.....	.....	.....	1	.....	.....	.....	.....	.....
Allegany	4	1	1	.....	.....	1	1	.....	.....	.....	.....
Broome	13	3	2	1	.....	7	.....	.....	.....	.....	.....
Cattaraugus	3	.....	.....	.....	.....	1	.....	.....	.....	.....	2
Cayuga	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chautauqua	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chemung	3	1	.....	.....	.....	2	.....	.....	.....	.....	.....
Chenango	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Clinton	7	.....	.....	.....	.....	6	1	.....	.....	.....	.....
Columbia	7	.....	.....	.....	.....	4	1	.....	.....	.....	2
Cortland	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Delaware	4	2	.....	.....	.....	1	.....	.....	.....	.....	1
Dutchess	14	2	2	.....	2	.....	.....	8	.....	.....	.....
Erie	70	58	3	.....	.....	3	.....	1	.....	.....	2
Essex	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....
Franklin	2	1	.....	.....	.....	1	.....	.....	.....	.....	.....
Fulton	8	1	1	.....	.....	4	2	.....	.....	.....	.....
Genesee	7	2	.....	1	.....	1	2	.....	.....	.....	1
Greene	3	.....	3	.....	.....	.....	.....	.....	.....	.....	.....
Hamilton	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Herkimer	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1
Jefferson	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Lewis	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2
Livingston	5	.....	2	1	.....	.....	.....	.....	.....	.....	.....
Madison	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	19
Monroe	69	.....	2	2	1	7	11	21	6	.....	.....
Montgomery	1	1	.....	.....	.....	.....	.....	.....	.....	.....	.....
Nassau	19	4	4	3	5	.....	.....	3	.....	.....	.....
Niagara	6	2	.....	.....	3	4	.....	1	.....	.....	.....
Oneida	4	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Onondaga	16	.....	1	.....	.....	.....	7	2	1	.....	5
Ontario	3	1	2	.....	.....	.....	.....	.....	.....	.....	.....
Orange	24	11	3	.....	4	3	1	.....	.....	.....	2
Orleans	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Oswego	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Otsego	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Putnam	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Rensselaer	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Rockland	8	5	1	.....	.....	1	1	.....	.....	.....	.....
St. Lawrence	6	2	.....	.....	1	3	.....	.....	.....	.....	.....
Saratoga	3	.....	.....	.....	1	2	.....	.....	.....	.....	.....
Schenectady	13	.....	.....	2	1	4	4	.....	.....	.....	2
Schoharie	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Schuyler	1	1	.....	.....	.....	.....	.....	.....	.....	.....	.....
Seneca	1	.....	.....	.....	.....	.....	.....	1	.....	.....	.....
Steuben	6	1	.....	.....	1	3	.....	.....	.....	.....	1
Suffolk	19	2	1	.....	.....	3	4	4	1	.....	4
Sullivan	7	6	1	.....	.....	.....	.....	.....	.....	.....	.....
Tioga	1	1	.....	.....	.....	.....	.....	.....	.....	.....	.....
Tompkins	1	1	.....	.....	.....	.....	.....	.....	.....	.....	.....
Ulster	6	.....	.....	.....	2	.....	3	1	.....	.....	.....
Warren	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Washington	3	2	.....	.....	.....	1	.....	.....	.....	.....	.....
Wayne	3	.....	.....	.....	.....	.....	3	.....	.....	.....	.....
Westchester	15	6	3	2	.....	2	1	1	.....	.....	.....
Wyoming	5	3	1	.....	.....	.....	.....	.....	.....	.....	1
Yates	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

Table 61

FAMILY COURT
Child Protective Proceedings Involving Child Abuse (Boys Only)
Number of Adjournments Between Filing of Petition and Initial Fact-Finding Hearing*

Jan. 1, 1979 through Dec. 30, 1979

Region County	Number of Adjournments											
	Total	None	1	2	3	4	5	6	7	8	9	Over 9
Total New York State	409	146	44	28	31	35	31	30	14	13	7	20
Total New York City	202	37	15	25	18	20	21	21	10	11	6	18
New York	91	13	4	9	7	10	8	13	4	7	3	13
Kings	50	13	2	7	5	6	8	4	3	..	1	1
Queens	20	3	3	5	1	2	2	1	..	1	..	2
Bronx	38	6	6	4	5	2	3	3	2	3	2	2
Richmond	3	2	..	..	..	..	..	..	1	..	..	..
Total Upstate	207	109	29	13	13	15	10	9	4	2	1	2
Albany	1	..	..	1	..	..	..	..	..	..	..	..
Allegany	4	2	2	..	..	..	..	..	..	..	..	..
Broome	2	1	1	..	..	..	..	..	..	..	..	..
Cattaraugus	1	1	..	..	..	..	..	..	..	..	..	..
Cayuga	..	..	..	..	..	..	..	..	..	..	..	..
Chautauqua	..	..	..	..	..	..	..	..	..	..	..	..
Chemung	..	..	..	..	..	..	..	..	..	..	..	..
Chenango	..	..	..	..	..	..	..	..	..	..	..	..
Clinton	14	14	..	..	..	..	..	..	..	..	..	..
Columbia	1	..	1	..	..	..	..	..	..	..	..	..
Cortland	..	..	..	..	..	..	..	..	..	..	..	..
Delaware	..	..	..	..	..	..	..	..	..	..	..	..
Dutchess	5	2	2	1	..	..	..	..	..	..	..	..
Erie	43	39	1	..	..	3	..	..	..	..	..	..
Essex	..	..	..	..	..	..	..	..	..	..	..	..
Franklin	..	..	..	..	..	..	..	..	..	..	..	..
Fulton	3	2	1	..	..	..	..	..	..	..	..	..
Genesee	1	..	..	1	..	..	..	..	..	..	..	..
Greene	4	4	..	..	..	..	..	..	..	..	..	..
Hamilton	..	..	..	..	..	..	..	..	..	..	..	..
Herkimer	..	..	..	..	..	..	..	..	..	..	..	..
Jefferson	2	2	..	..	..	..	..	..	..	..	..	..
Lewis	..	..	..	..	..	..	..	..	..	..	..	..
Livingston	..	..	..	..	..	..	..	..	..	..	..	..
Madison	1	1	..	..	..	..	..	..	..	..	..	..
Monroe	33	1	..	..	3	9	5	9	4	1	1	..
Montgomery	..	..	..	..	..	..	..	..	..	..	..	..
Nassau	7	4	..	..	2	..	..	..	..	..	..	1
Niagara	7	6	..	1	..	..	..	..	..	..	..	..
Oneida	7	..	..	3	2	1	1	..	..	..	..	..
Onondaga	4	..	..	..	..	..	3	..	..	1	..	..
Ontario	3	1	1	..	1	..	..	..	..	..	..	..
Orange	13	11	2	..	..	..	..	..	..	..	..	..
Orleans	..	..	..	..	..	..	..	..	..	..	..	..
Oswego	..	..	..	..	..	..	..	..	..	..	..	..
Otsego	..	..	..	..	..	..	..	..	..	..	..	..
Putnam	..	..	..	..	..	..	..	..	..	..	..	..
Rensselaer	..	..	..	..	..	..	..	..	..	..	..	..
Rockland	3	3	..	..	..	..	..	..	..	..	..	..
St. Lawrence	..	..	..	..	..	..	..	..	..	..	..	..
Saratoga	2	..	2	..	..	..	..	..	..	..	..	..
Schenectady	6	2	1	..	3	..	..	..	..	..	..	..
Schoharie	1	..	1	..	..	..	..	..	..	..	..	..
Schuyler	..	..	..	..	..	..	..	..	..	..	..	..
Seneca	..	..	..	..	..	..	..	..	..	..	..	..
Steuben	1	1	..	..	..	..	..	..	..	..	..	..
Suffolk	7	2	2	..	..	1	1	..	..	..	..	1
Sullivan	2	1	1	..	..	..	..	..	..	..	..	..
Tioga	..	..	..	..	..	..	..	..	..	..	..	..
Tompkins	..	..	..	..	..	..	..	..	..	..	..	..
Ulster	2	..	..	2	..	..	..	..	..	..	..	..
Warren	1	..	1	..	..	..	..	..	..	..	..	..
Washington	1	1	..	..	..	..	..	..	..	..	..	..
Wayne	2	..	..	1	..	1	..	..	..	..	..	..
Westchester	18	8	5	3	2	..	..	..	..	..	..	..
Wyoming	5	..	5	..	..	..	..	..	..	..	..	..
Yates	..	..	..	..	..	..	..	..	..	..	..	..

*This table includes only cases in which there was an initial fact-finding hearing.

Table 62

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Girls Only)

Number of Adjournments Between Filing of Petition and Initial Fact-Finding Hearing*

Jan. 1, 1979 through Dec. 30, 1979

Region / County	Number of Adjournments											
	Total	None	1	2	3	4	5	6	7	8	9	Over 9
Total New York State	557	190	77	50	29	62	40	26	16	13	10	24
Total New York City	210	32	15	23	29	27	29	16	12	6	4	17
New York	93	9	5	10	7	15	16	9	8	4	5	7
Kings	35	3	1	6	11	9	2	2	1	..	..	....
Queens	33	8	4	4	2	2	3	2	2	..	..	6
Bronx	44	8	4	3	9	1	8	3	1	2	1	4
Richmond	5	4	1	..	..	..	..	..	..	..	..	....
Total Upstate	347	158	62	27	20	35	11	10	4	7	6	7
Albany	1	....	..	..	..	..	1	..	..	..	..	....
Allegany	4	2	1	1	..	..	..	..	..	..	..	....
Broome	13	10	3	..	..	..	..	..	..	..	..	....
Cattaraugus	1	....	1	..	..	..	..	..	..	..	..	....
Cayuga	..	....	..	..	..	..	..	..	..	..	..	....
Chautauqua	..	....	..	..	..	..	..	..	..	..	..	....
Chemung	3	....	2	..	1	..	..	..	..	..	..	....
Chenango	..	....	..	..	..	..	..	..	..	..	..	....
Clinton	7	7	..	..	..	..	..	..	..	..	..	....
Columbia	5	2	3	..	..	..	..	..	..	..	..	....
Cortland	..	....	..	..	..	..	..	..	..	..	..	....
Delaware	3	3	..	..	..	..	..	..	..	..	..	....
Dutchess	14	4	..	..	..	10	..	..	..	..	..	....
Erie	68	60	5	3	..	..	..	..	..	..	..	....
Essex	..	....	..	..	..	..	..	..	..	..	..	....
Franklin	2	2	..	..	..	..	..	..	..	..	..	....
Fulton	8	4	1	1	1	..	..	1	..	..	..	....
Genesee	6	1	2	1	1	1	..	..	..	..	..	....
Greene	3	3	..	..	..	..	..	..	..	..	..	....
Hamilton	..	....	..	..	..	..	..	..	..	..	..	....
Herkimer	..	....	..	..	..	..	..	..	..	..	..	....
Jefferson	..	....	..	..	..	..	..	..	..	..	..	....
Lewis	..	....	..	..	..	..	..	..	..	..	..	....
Livingston	3	3	..	..	..	..	..	..	..	..	..	....
Madison	..	....	..	..	..	..	..	..	..	..	..	....
Monroe	50	2	2	2	3	12	3	8	4	5	5	4
Montgomery	1	1	..	..	..	..	..	..	..	..	..	....
Nassau	19	1	6	1	2	1	2	1	..	2	..	3
Niagara	6	5	..	1	..	..	..	..	..	..	..	....
Oneida	4	....	2	..	2	..	..	..	..	..	..	....
Onondaga	11	....	1	2	1	5	1	..	..	..	1	....
Ontario	3	2	..	..	1	..	..	..	..	..	..	....
Orange	22	19	2	1	..	..	..	..	..	..	..	....
Orleans	..	....	..	..	..	..	..	..	..	..	..	....
Oswego	..	....	..	..	..	..	..	..	..	..	..	....
Otsego	..	....	..	..	..	..	..	..	..	..	..	....
Putnam	..	....	..	..	..	..	..	..	..	..	..	....
Rensselaer	..	....	..	..	..	..	..	..	..	..	..	....
Rockland	8	3	4	1	..	..	..	..	..	..	..	....
St. Lawrence	6	4	2	..	..	..	..	..	..	..	..	....
Saratoga	3	....	1	..	2	..	..	..	..	..	..	....
Schenectady	11	3	3	4	1	..	..	..	..	..	..	....
Schoharie	..	....	..	..	..	..	..	..	..	..	..	....
Schuyler	1	1	..	..	..	..	..	..	..	..	..	....
Seneca	1	....	..	..	..	1	..	..	..	..	..	....
Steuben	5	2	2	1	..	..	..	..	..	..	..	....
Suffolk	15	3	3	1	2	2	4	..	..	..	..	....
Sullivan	7	4	3	..	..	..	..	..	..	..	..	....
Tioga	1	....	1	..	..	..	..	..	..	..	..	....
Tompkins	1	....	1	..	..	..	..	..	..	..	..	....
Ulster	6	1	2	3	..	..	..	..	..	..	..	....
Warren	..	....	..	..	..	..	..	..	..	..	..	....
Washington	3	2	1	..	..	..	..	..	..	..	..	....
Wayne	3	....	..	..	1	2	..	..	..	..	..	....
Westchester	15	4	5	4	1	1	..	..	..	..	..	....
Wyoming	4	....	3	..	1	..	..	..	..	..	..	....
Yates	..	....	..	..	..	..	..	..	..	..	..	....

*This table includes only cases in which there was an initial fact-finding hearing.

Table 63

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Boys Only)

Length of Time Between Initial Fact-Finding Hearing and Dispositional Hearing

Jan. 1, 1979 through Dec. 30, 1979

Region County	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Number Of Cases Without IFH
Total New York State	504	131	7	15	7	105	51	46	31	16	95
Total New York City	277	51	1	1	....	64	36	26	18	5	75
New York	107	18	...	1	....	32	24	7	6	3	16
Kings	88	16	1	....	....	7	7	10	7	2	38
Queens	20	4	...	....	....	8	1	4	3	.....	.....
Bronx	58	12	...	....	....	17	4	3	2	.....	20
Richmond	4	1	...	....	....	....	....	2	.....	....	1
Total Upstate	227	80	6	14	7	41	15	20	13	11	20
Albany	1	...	...	....	....	....	.....	.....	1	.....	.....
Allegany	4	4	...	....	....	....	.....	.....	.....	.....	.....
Broome	2	...	1	....	1	....	.....	.....	.....	.....	.....
Cattaraugus	2	1	...	....	....	....	.....	.....	.....	.....	1
Cayuga	....	....	...	....	....	....	.....	.....	.....	.....	.....
Chautauqua	....	....	...	....	....	....	.....	.....	.....	.....	.....
Chemung	....	....	...	....	....	2	.....	.....	.....	.....	.....
Chenango	....	....	...	....	....	....	.....	.....	.....	.....	.....
Clinton	14	1	...	11	....	....	2	.....	.....	.....	.....
Columbia	2	1	...	....	....	....	.....	.....	.....	.....	1
Cortland	....	....	...	....	....	....	.....	.....	.....	.....	.....
Delaware	....	....	...	....	....	....	.....	.....	.....	.....	.....
Dutchess	6	1	2	....	....	2	.....	.....	.....	....	1
Erie	43	10	3	....	....	10	2	10	.....	8	.....
Essex	....	....	...	....	....	....	.....	.....	.....	.....	.....
Franklin	....	....	...	....	....	....	.....	.....	.....	.....	.....
Fulton	3	1	...	....	....	....	2	.....	.....	.....	.....
Genesee	1	....	...	....	....	....	.....	.....	.....	1	.....
Greene	4	....	...	....	2	2	.....	.....	.....	.....	.....
Hamilton	....	....	...	....	....	....	.....	.....	.....	.....	.....
Herkimer	....	....	...	....	....	....	.....	.....	.....	.....	.....
Jefferson	2	2	...	....	....	....	.....	.....	.....	.....	.....
Lewis	....	....	...	....	....	....	.....	.....	.....	.....	.....
Livingston	1	....	...	....	....	....	.....	.....	.....	.....	1
Madison	1	1	...	....	....	....	.....	.....	.....	.....	.....
Monroe	44	24	...	....	1	5	1	.....	2	.....	11
Montgomery	....	....	...	....	....	....	.....	.....	.....	.....	.....
Nassau	7	....	...	....	....	1	1	3	2	.....	.....
Niagara	7	2	...	....	....	5	.....	.....	.....	.....	.....
Oneida	7	2	...	....	1	3	.....	.....	1	.....	.....
Onondaga	7	3	...	....	....	....	1	.....	.....	.....	3
Ontario	3	1	...	....	....	1	.....	.....	1	.....	.....
Orange	13	6	...	2	2	2	.....	1	.....	.....	.....
Orleans	....	....	...	....	....	....	.....	.....	.....	.....	.....
Oswego	....	....	...	....	....	....	.....	.....	.....	.....	.....
Otsego	....	....	...	....	....	....	.....	.....	.....	.....	.....
Putnam	....	....	...	....	....	....	.....	.....	.....	.....	.....
Rensselaer	....	....	...	....	....	....	.....	.....	.....	.....	.....
Rockland	3	....	...	....	....	3	.....	.....	.....	.....	.....
St. Lawrence	....	....	...	....	....	....	.....	.....	.....	.....	.....
Saratoga	2	2	...	....	....	....	.....	.....	.....	.....	3
Schenectady	6	5	...	....	....	....	1	.....	.....	.....	.....
Schoharie	1	1	...	....	....	....	.....	.....	.....	.....	.....
Schuyler	....	....	...	....	....	....	.....	.....	.....	.....	.....
Seneca	....	....	...	....	....	....	.....	.....	.....	.....	.....
Steuben	1	1	...	....	....	....	.....	.....	.....	.....	.....
Suffolk	7	2	...	....	....	....	1	2	2	.....	.....
Sullivan	3	1	...	....	....	1	.....	.....	.....	.....	1
Tioga	....	....	...	....	....	....	.....	.....	.....	.....	.....
Tompkins	....	....	...	....	....	....	.....	.....	.....	.....	.....
Ulster	2	2	...	....	....	....	.....	.....	.....	.....	.....
Warren	1	1	...	....	....	....	.....	.....	.....	.....	.....
Washington	1	....	...	....	....	....	.....	1	.....	.....	.....
Wayne	2	....	...	....	....	....	1	1	.....	.....	.....
Westchester	18	5	...	....	....	2	3	2	4	2	.....
Wyoming	6	...	...	1	....	4	.....	.....	.....	....	1
Yates	....	....	...	....	....	....	.....	.....	.....	.....	.....

Table 64

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Girls Only)
Length of Time Between Initial Fact-Finding Hearing and Dispositional Hearing

Jan. 1, 1979 through Dec. 30, 1979

Region County	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Number Of Cases Without IFH
Total New York State	692	189	11	21	18	131	82	73	24	8	135
Total New York City	300	53	1	2	3	60	50	28	10	3	90
New York	113	10	...	1	2	39	27	8	5	1	20
Kings	80	15	...	....	1	2	11	4	1	1	45
Queens	33	17	1	....	....	2	2	10	1	.....	.....
Bronx	39	11	...	1	....	17	8	3	3	1	25
Richmond	5	....	....	....	....	.....	2	3	.....	.....	.....
Total Upstate	392	136	10	19	15	71	32	45	14	5	45
Albany	1	....	....	....	....	.....	.....	1	.....	.....	.....
Allegany	4	3	1	....	....	.....	.....	.....	.....	.....	.....
Broome	13	7	...	4	....	2	.....	.....	.....	.....	.....
Cattaraugus	3	1	...	....	....	.....	.....	.....	.....	.....	2
Cayuga	....	....	....	....	....	.....	.....	.....	.....	.....	.....
Chautauqua	....	....	....	....	....	.....	.....	.....	.....	.....	.....
Chemung	3	2	...	....	....	.....	1	.....	.....	.....	.....
Chenango	....	....	....	....	....	.....	.....	.....	.....	.....	.....
Clinton	7	1	...	3	....	3	.....	.....	.....	.....	.....
Columbia	7	4	...	....	....	1	.....	.....	.....	.....	2
Cortland	....	....	....	....	....	.....	.....	.....	.....	.....	.....
Delaware	4	2	...	....	....	.....	1	.....	.....	.....	1
Dutchess	14	4	...	6	....	.....	4	.....	.....	.....	.....
Erie	70	12	4	4	2	21	2	17	2	4	2
Essex	....	....	....	....	....	.....	.....	.....	.....	.....	.....
Franklin	2	1	...	....	....	1	.....	.....	.....	.....	.....
Fulton	8	3	...	....	....	1	1	3	.....	.....	.....
Genesee	7	1	...	1	....	2	.....	.....	2	.....	1
Greene	3	....	....	....	....	3	.....	.....	.....	.....	.....
Hamilton	....	....	....	....	....	.....	.....	.....	.....	.....	.....
Herkimer	....	....	....	....	....	.....	.....	.....	.....	.....	.....
Jefferson	1	....	....	....	....	.....	.....	.....	.....	.....	1
Lewis	....	....	....	....	....	.....	.....	.....	.....	.....	.....
Livingston	5	1	...	....	....	.....	.....	2	.....	.....	2
Madison	....	....	....	....	....	.....	.....	.....	.....	.....	.....
Monroe	69	35	1	1	5	3	2	1	2	.....	19
Montgomery	1	....	....	....	1	.....	.....	.....	.....	.....	.....
Nassau	19	....	....	....	....	7	4	7	1	.....	.....
Niagara	6	3	...	....	1	2	.....	.....	.....	.....	.....
Oneida	4	4	....	....	....	.....	.....	.....	.....	.....	.....
Onondaga	16	6	...	....	....	3	2	.....	.....	.....	5
Ontario	3	....	....	....	....	1	.....	2	.....	.....	.....
Orange	24	10	1	....	4	3	1	3	.....	.....	2
Orleans	....	....	....	....	....	.....	.....	.....	.....	.....	.....
Oswego	....	....	....	....	....	.....	.....	.....	.....	.....	.....
Otsego	....	....	....	....	....	.....	.....	.....	.....	.....	.....
Putnam	....	....	....	....	....	.....	.....	.....	.....	.....	.....
Rensselaer	....	....	....	....	....	.....	.....	.....	.....	.....	.....
Rockland	8	4	...	....	....	3	.....	1	.....	.....	.....
St. Lawrence	6	1	...	....	1	1	1	2	.....	.....	.....
Saratoga	3	3	....	....	....	.....	.....	.....	.....	.....	.....
Schenectady	13	8	2	....	1	.....	.....	.....	.....	.....	2
Schoharie	....	....	....	....	....	.....	.....	.....	.....	.....	.....
Schuyler	1	....	1	....	....	.....	.....	.....	.....	.....	.....
Seneca	1	....	....	....	....	1	.....	.....	.....	.....	.....
Steuben	6	1	...	....	....	.....	3	1	.....	.....	1
Suffolk	19	8	...	....	....	2	2	1	2	.....	4
Sullivan	7	1	....	....	....	1	.....	1	4	.....	.....
Tioga	1	....	....	....	....	.....	.....	1	.....	.....	.....
Tompkins	1	....	....	....	....	.....	.....	.....	1	.....	.....
Ulster	6	3	...	....	....	3	.....	.....	.....	.....	.....
Warren	....	....	....	....	....	.....	.....	.....	.....	.....	.....
Washington	3	2	...	....	....	1	.....	.....	.....	.....	.....
Wayne	3	2	...	....	....	.....	1	.....	.....	.....	.....
Westchester	15	2	...	....	....	3	7	2	.....	1	.....
Wyoming	5	1	...	....	....	3	.....	.....	.....	.....	1
Yates	....	....	....	....	....	.....	.....	.....	.....	.....	.....

Table 65

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Boys Only)

Number of Adjournments Between Initial Fact-Finding Hearing and Dispositional Hearing*

Jan. 1, 1979 through Dec. 30, 1979

Region / County	Number of Adjournments											
	Total	None	1	2	3	4	5	6	7	8	9	Over 9
Total New York State	409	180	83	45	27	17	22	12	8	2	1	12
Total New York City	202	75	38	24	17	9	11	9	8	...	...	11
New York	91	20	16	15	13	4	7	4	3	...	...	9
Kings	50	26	8	1	2	3	2	4	4	...	...	...
Queens	20	15	3	1	...	...	...	...	...	...	...	1
Bronx	38	14	11	7	2	2	...	1	...	...	...	1
Richmond	3	...	...	...	...	...	2	...	1	...	...	...
Total Upstate	207	105	45	21	10	8	11	3	...	2	1	1
Albany	1	...	...	...	1	...	...	...	...	...	...	...
Allegany	4	4	...	...	...	...	...	...	...	...	...	...
Broome	2	1	1	..	...	...	...	...	...	...	...	...
Cattaraugus	1	1	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	...	...	...	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...	...
Clinton	14	14	...	...	...	...	...	...	...	...	...	...
Columbia	1	1	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...	...
Dutchess	5	5	...	...	...	...	...	...	...	...	...	...
Erie	43	9	13	8	3	3	6	1	...	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	3	1	2	...	...	...	...	...	...	...	...	...
Genesee	1	1	...	...	...	...	...	...	...	...	...	...
Greene	4	...	3	1	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	...	...	...	...	...	...
Jefferson	2	2	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...	...
Madison	1	1	...	...	...	...	...	...	...	...	...	...
Monroe	33	24	3	2	2	1	...	...	...	1	...	...
Montgomery	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	7	1	1	3	...	...	1	...	...	...	1	...
Niagara	7	5	1	1	...	...	...	...	...	...	...	...
Oneida	7	4	2	1	...	...	...	...	...	...	...	...
Onondaga	4	3	...	...	...	...	1	...	...	...	...	...
Ontario	3	...	2	...	...	...	1	...	...	...	...	...
Orange	13	2	11	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	3	3	...	...	...	...	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...	...
Saratoga	2	2	...	...	...	...	...	...	...	...	...	...
Schenectady	6	1	...	...	3	...	2	...	...	...	...	...
Schoharie	1	1	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...	...	...	...
Steuben	1	1	...	...	...	...	...	...	...	...	...	...
Suffolk	7	2	...	1	1	...	...	1	...	1	...	1
Sullivan	2	2	...	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...	...	...	...
Ulster	2	2	...	...	...	...	...	...	...	...	...	...
Warren	1	...	1	...	...	...	...	...	...	...	...	...
Washington	1	...	1	...	...	...	...	...	...	...	...	...
Wayne	2	1	...	1	...	...	...	...	...	...	...	...
Westchester	18	6	4	3	...	4	...	1	...	...	...	...
Wyoming	5	5	...	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...

*This table includes only cases in which there was an initial fact-finding hearing.

Table 66

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Girls Only)

Number of Adjournments Between Initial Fact-Finding Hearing and Dispositional Hearing*

Jan. 1, 1979 through Dec. 30, 1979

Region / County	NUMBER OF ADJOURNMENTS											
	Total	None	1	2	3	4	5	6	7	8	9	Over 9
Total New York State	557	240	115	63	57	21	20	11	3	4	9	14
Total New York City	210	72	31	26	35	8	11	6	3	1	5	12
New York	93	15	14	16	23	3	7	3	...	1	3	8
Kings	35	19	2	2	6	1	...	3	2	...	...	...
Queens	33	23	1	2	1	1	1	...	1	...	...	3
Bronx	44	15	13	6	4	3	...	...	...	...	2	1
Richmond	5		1	...	1	...	3	...	...	...	...	...
Total Upstate	347	168	84	37	22	13	9	5	...	3	4	2
Albany	1	...	...	1	...	...	...	...	...	...	...	...
Allegany	4	2	1	...	...	...	...	...	...	1	...	...
Broome	13	12	...	1	...	...	...	...	...	...	...	...
Cattaraugus	1	1	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	3	3	...	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...	...
Clinton	7	7	...	...	...	...	...	...	...	...	...	...
Columbia	5	5	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	3	2	1	...	...	...	...	...	...	...	...	...
Dutchess	14	6	8	...	...	...	...	...	...	...	...	...
Erie	68	12	17	16	8	9	2	2	...	2	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	2	1	1	...	...	...	...	...	...	...	...	...
Fulton	8	5	3	...	...	...	...	...	...	...	...	...
Genesee	6	3	2	1	...	...	...	...	...	...	...	...
Greene	3		3	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	...	...	...	...	...	...
Jefferson	...	...	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	3	3	...	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...	...	...	...
Monroe	50	35	5	3	1	2	1	2	...	...	1	...
Montgomery	1	...	1	...	...	...	...	...	...	...	...	...
Nassau	19	1	9	2	2	...	2	...	...	...	3	...
Niagara	6	4	...	2	...	...	...	...	...	...	...	...
Oneida	4	4	...	...	...	...	...	...	...	...	...	...
Onondaga	11	6	2	...	1	...	2	...	...	...	...	...
Ontario	3	...	3	...	...	...	...	...	...	...	...	...
Orange	22	14	7	...	1	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	8	7	1	...	...	...	...	...	...	...	...	...
St. Lawrence	6	2	4	...	...	...	...	...	...	...	...	...
Saratoga	3	3	...	...	...	...	...	...	...	...	...	...
Schenectady	11	2	3	...	4	...	2	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	1	...	1	...	...	...	...	...	...	...	...	...
Seneca	1	...	...	1	...	...	...	...	...	...	...	...
Steuben	5	2	1	1	1	...	...	...	...	...	...	...
Suffolk	15	6	2	2	2	...	...	1	2	...	...	2
Sullivan	7	3	4	...	...	...	...	...	...	...	...	...
Tioga	1	...	...	1	...	...	...	...	...	...	...	...
Tompkins	1	...	1	...	...	...	...	...	...	...	...	...
Ulster	6	5	1	...	...	...	...	...	...	...	...	...
Warren	...	...	...	...	...	...	...	...	...	...	...	...
Washington	3	2	1	...	...	...	...	...	...	...	...	...
Wayne	3	1	...	1	...	1	...	...	...	...	...	...
Westchester	15	5	2	5	2	1	...	...	...	...	...	...
Wyoming	4	4	...	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...

*THIS TABLE INCLUDES ONLY CASES IN WHICH THERE WAS AN INITIAL FACT–FINDING HEARING.

Table 67

FAMILY COURT

Court Findings in Child Protective Proceedings Involving Child Abuse, by Sex
Reason for Petition Abuse Only

Jan. 1, 1979 through Dec. 30, 1979

Region County	Boys							Girls						
		Court Findings at Dispositional Hearing				Court Findings Based On			Court Findings at Dispositional Hearing				Court Findings Based On	
	Total	Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties	Total	Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	360	100	125	11	124	171	189	531	191	137	24	179	249	282
Total New York City	173	61	55	6	51	94	79	206	84	62	14	46	117	89
New York	72	14	35	2	21	40	32	81	23	32	7	19	45	36
Kings	37	17	6	2	12	19	18	39	20	5	4	10	16	23
Queens	20	18	2			11	9	33	27	4		2	22	11
Bronx	40	12	9	2	17	21	19	48	13	18	3	14	31	17
Richmond	4		3		1	3	1	5	1	3		1	3	2
Total Upstate	187	39	70	5	73	77	110	325	107	75	10	133	132	193
Albany	1	1				1		1	1				1	
Allegany	4		2		2	2	2	4		1		3		4
Broome	2		1		1	1	1	12	3	1		8	4	8
Cattaraugus	2		1		1	1	1	3				3		3
Cayuga														
Chautauqua														
Chemung								3		2		1		3
Chenango														
Clinton	8		2	5	1	7	1	6	3		2	1	5	1
Columbia	2		1		1		2	7	1	1	1	4	2	5
Cortland														
Delaware								2	1			1	1	1
Dutchess	6	3			3	3	3	12	9			3	7	5
Erie	42	2	28		12	19	23	68	9	28		31	34	34
Essex														
Franklin								2	1	1			2	
Fulton	2				2		2	4				4		4
Genesee	1				1		1	7	2	1		4	1	6
Greene	4	1	3			2	2	3	1	2				3
Hamilton														
Herkimer														
Jefferson	2				2	1	1	1	1				1	
Lewis														
Livingston	1				1		1	5		1		4		5
Madison														
Monroe	27	15	6		6	21	6	48	32	3	1	12	36	12
Montgomery								1		1			1	
Nassau	3		1		2	1	2	1				1		1
Niagara	5	2			3		5	4	3			1	1	3
Oneida	7	4	1		2	5	2	4	2			2	2	2
Onondaga	7		4		3		7	16	7	4		5	1	15
Ontario	2	2				2		3	2	1			1	2
Orange	12	1	2		9	7	5	21		7	4	10	13	8
Orleans														
Oswego														
Otsego														
Putnam														
Rensselaer														
Rockland	3				3		3	7	3			4		7
St. Lawrence								5	3			2	1	4
Saratoga	2		2				2	3	2	1				3
Schenectady	5	2	3				5	11	4	5		2		11
Schoharie	1		1				1							
Schuyler								1				1		1
Seneca														
Steuben	1				1		1	6				6	1	5
Suffolk	7	2	3		2	2	5	18	9	5		4	5	13
Sullivan	3	1			2		3	6	1			5	1	5
Tioga								1	1					
Tompkins								1				1		1
Ulster								3		2	1		1	2
Warren	1				1		1							
Washington	1				1		1	3	2	1			2	1
Wayne	2	1			1	1	1	3	2			1	2	1
Westchester	15	2	9		4	1	14	14	1	7	1	5	4	10
Wyoming	6				6		6	5	1			4	1	4
Yates														

Table 68

FAMILY COURT

Court Findings in Child Protective Proceedings Involving Child Abuse, by Sex
Reason for Petition Both Abuse and Neglect

Jan. 1, 1979 through Dec. 30, 1979

Region County	Boys							Girls						
		Court Findings at Dispositional Hearing				Court Findings Based On			Court Findings at Dispositional Hearing				Court Findings Based On	
	Total	Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties	Total	Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	113	11	54	24	24	67	46	136	21	51	25	39	74	62
Total New York City	85	7	42	20	15	54	31	82	10	31	15	26	45	37
New York	34	4	22	5	3	28	6	29	2	14	4	9	17	12
Kings	39	3	14	15	7	20	19	36	6	11	11	8	20	16
Queens														
Bronx	12		6		6	6	6	17	2	6		9	8	9
Richmond														
Total Upstate	28	4	12	4	8	13	15	54	11	20	10	13	29	25
Albany														
Allegany														
Broome								1				1		1
Cattaraugus														
Cayuga														
Chautauqua														
Chemung														
Chenango														
Clinton														
Columbia														
Cortland														
Delaware														
Dutchess								2		2			2	
Erie								2		1		1	2	
Essex														
Franklin														
Fulton	1			1			1	4		1	2	1	1	3
Genesee														
Greene														
Hamilton														
Herkimer														
Jefferson														
Lewis														
Livingston														
Madison	1		1			1								
Monroe	15	4	5	2	4	11	4	19	10	2	1	6	13	6
Montgomery														
Nassau	2		1		1		2	14		9	5		7	7
Niagara	2			1	1	1	1	2			2		2	
Oneida														
Onondaga														
Ontario														
Orange	1				1		1	3				3		3
Orleans														
Oswego														
Otsego														
Putnam														
Rensselaer														
Rockland								1		1				1
St. Lawrence														
Saratoga														
Schenectady	1		1				1							
Schoharie														
Schuyler														
Seneca								1	1				1	
Steuben														
Suffolk														
Sullivan								1				1	1	
Tioga														
Tompkins														
Ulster	2		2				2	3		3				3
Warren														
Washington														
Wayne														
Westchester	3		2		1		3	1		1				1
Wyoming														
Yates														

Table 69

FAMILY COURT

Court Findings in Child Protective Proceedings Involving Child Abuse, by Sex
Reason for Petition Neglect Only

Jan. 1, 1979 through Dec. 30, 1979

Region / County	Boys							Girls						
		Court Findings at Dispositional Hearing				Court Findings Based On			Court Findings at Dispositional Hearing				Court Findings Based On	
	Total	Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties	Total	Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	1,932	5	1,042	26	859	745	1,187	1,890	8	991	17	824	694	1,196
Total New York City	588	3	387	16	182	268	320	547	2	370	10	165	256	291
New York	202	.....	145	1	56	111	91	186	1	128	2	55	101	85
Kings	117	.....	76	12	29	32	85	127	.....	97	5	25	33	94
Queens	98	.....	65	...	33	42	56	88	.....	58	...	30	48	40
Bronx	129	3	72	3	51	64	65	112	1	63	3	45	56	56
Richmond	42	.....	29	...	13	19	23	34	.....	24	.....	10	18	16
Total Upstate	1,344	2	655	10	677	477	867	1,343	6	621	7	709	438	905
Albany	24	.....	23	...	1	24	.....	24	.....	24	...	.....	24	.....
Allegany	1	.....	.....	...	1	1	.....	5	.....	1	...	4	3	2
Broome	42	.....	13	...	29	21	21	45	.....	15	...	30	14	31
Cattaraugus	15	.....	6	...	9	4	11	16	.....	6	...	10	5	11
Cayuga	.....	.....	.....	...	.....	.....	.....	.....	.....	.....	...	.....	.....	.....
Chautauqua	47	.....	7	...	40	6	41	64	.....	13	...	51	10	54
Chemung	27	.....	14	...	13	.....	27	19	.....	18	...	1	.....	19
Chenango	3	.....	2	...	1	1	2	5	.....	4	...	1	3	2
Clinton	10	.....	3	6	1	9	1	6	.....	4	1	1	5	1
Columbia	2	.....	.....	...	2	.....	2	1	.....	.....	...	1	.....	1
Cortland	.....	.....	.....	...	.....	.....	.....	.....	.....	.....	...	.....	.....	.....
Delaware	16	.....	7	...	9	4	12	16	2	8	...	6	3	13
Dutchess	32	.....	7	...	25	5	27	40	.....	13	...	27	9	31
Erie	189	.....	116	1	72	107	82	225	.....	133	...	92	126	99
Essex	3	.....	2	...	1	2	1	2	.....	.....	...	2	.....	2
Franklin	20	.....	11	...	9	8	12	20	.....	6	...	14	6	14
Fulton	12	.....	1	...	11	.....	12	11	.....	3	...	8	.....	11
Genesee	19	.....	5	...	14	2	17	20	.....	12	...	8	3	17
Greene	9	.....	2	...	7	2	7	9	.....	2	...	7	2	7
Hamilton	.....	.....	.....	...	.....	.....	.....	.....	.....	.....	...	.....	.....	.....
Herkimer	9	.....	4	...	5	6	3	7	.....	4	...	3	5	2
Jefferson	19	.....	4	...	15	6	13	14	.....	4	...	10	7	7
Lewis	.....	.....	.....	...	.....	.....	.....	.....	.....	.....	...	.....	.....	.....
Livingston	1	.....	1	...	.....	.....	1	5	.....	2	...	3	.....	5
Madison	8	.....	8	...	.....	3	5	6	.....	6	...	.....	5	1
Monroe	184	1	84	1	98	88	96	154	2	62	...	90	64	90
Montgomery	3	.....	1	...	2	.....	3	.....	.....	.....	...	.....	.....	.....
Nassau	125	.....	95	2	28	69	56	135	.....	95	4	36	62	73
Niagara	37	.....	26	...	11	8	29	27	.....	11	...	16	6	21
Oneida	12	.....	7	...	5	3	9	9	.....	.....	...	9	.....	9
Onondaga	62	.....	26	...	36	4	58	73	.....	30	...	43	3	70
Ontario	12	1	10	...	1	11	1	9	.....	8	...	1	6	3
Orange	6	.....	2	...	4	.....	6	8	.....	2	...	6	1	7
Orleans	.....	.....	.....	...	.....	.....	.....	.....	.....	.....	...	.....	.....	.....
Oswego	15	.....	8	...	7	3	12	15	.....	4	...	11	4	11
Otsego	2	.....	.....	...	2	.....	2	4	.....	.....	...	4	.....	4
Putnam	.....	.....	.....	...	.....	.....	.....	.....	.....	.....	...	.....	.....	.....
Rensselaer	.....	.....	.....	...	.....	.....	.....	.....	.....	.....	...	.....	.....	.....
Rockland	2	.....	.....	...	2	.....	2	9	.....	1	...	8	1	8
St. Lawrence	17	.....	11	...	6	7	10	19	1	7	...	11	5	14
Saratoga	9	.....	3	...	6	1	8	15	.....	6	...	9	6	9
Schenectady	20	.....	18	...	2	4	16	14	.....	6	2	6	.....	14
Schoharie	7	.....	2	...	5	2	5	5	.....	1	...	4	1	4
Schuyler	3	.....	.....	...	3	.....	3	1	.....	.....	...	1	.....	1
Seneca	4	.....	1	...	3	1	3	10	.....	4	...	6	4	6
Steuben	16	.....	2	...	14	2	14	15	.....	2	...	13	1	14
Suffolk	109	.....	26	...	83	13	96	104	1	34	...	69	13	91
Sullivan	16	.....	5	...	11	6	10	18	.....	5	...	13	5	13
Tioga	7	.....	1	...	6	.....	7	10	.....	5	...	5	2	8
Tompkins	11	.....	4	...	7	4	7	8	.....	5	...	3	.....	8
Ulster	18	.....	7	...	11	3	15	20	.....	8	...	12	6	14
Warren	19	.....	13	...	6	3	16	15	.....	10	...	5	.....	15
Washington	21	.....	21	...	.....	16	5	5	.....	4	...	1	1	4
Wayne	24	.....	15	...	9	13	11	20	.....	12	...	8	10	10
Westchester	63	.....	30	...	33	5	58	48	.....	18	...	30	7	41
Wyoming	12	.....	1	...	11	.....	12	10	.....	.....	...	10	.....	10
Yates	.....	.....	.....	...	.....	.....	.....	3	.....	3	...	.....	.....	3

Table 70

FAMILY COURT

Dispositions of Child Protective Proceedings Involving Child Abuse (Boys Only)*

Jan. 1, 1979 through Dec. 30, 1979

Region County	Total	With-drawn	Dis-missed	Judg-ment Sus-pended	Re-leased to Parent or Other Person	Re-leased to Parent or Other Person Under Social Ser-vices Depart-ment Super-vision	Re-leased to Parent or Other Person Under Pri-vate Agency Super-vision	Pro-bation	Order of Pro-tec-tion	Trans-ferred to A Court With Crim-inal Juris-dic-tion	Trans-ferred to Family Court in Another County	Con-sol-idated With An-other Child Pro-tec-tive Pro-ceed-ing	Con-sol-idated With Family Of-fense Pro-ceed-ing	Con-sol-idated With Sup-port Pro-ceed-ing	Re-moval of Child From Home and Place-ment With Rel-ative	Re-moval of Child From Home and Place-ment With Non-Rel-ative	Re-moval of Child From Home and Place-ment With Public Social Ser-vices Depart-ment or Officer	Re-moval of Child From Home and Place-ment With Pri-vate Insti-tution	Re-moval of Child From Home and Place-ment With Other Author-ized Agency	Other
Total New York State	504	37	142	1	22	62	8	...	46	1	5	...	...	...	4	...	169	...	...	7
Total New York City	277	18	96	...	18	27	1	...	15	...	3	...	...	...	3	...	92	...	...	4
New York	107	2	23	...	3	13	...	...	12	...	...	...	...	...	2	...	51	...	...	1
Kings	88	10	54	...	4	4	...	...	1	...	...	...	...	...	1	...	12	...	...	2
Queens	20	1	3	...	1	...	...	...	...	...	2	...	...	...	...	...	13	...	...	...
Bronx	58	5	16	...	10	10	...	...	2	...	...	...	...	...	...	...	14	...	...	1
Richmond	4	...	...	...	...	...	1	...	...	...	1	...	...	...	...	...	2	...	...	...
Total Upstate	227	19	46	1	4	35	7	...	31	1	2	...	...	...	1	...	77	...	...	3
Albany	1	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Allegany	4	...	...	...	...	1	...	...	2	...	1	...	...	...	...	...	...	...	...	...
Broome	2	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Cattaraugus	2	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Clinton	14	...	...	...	...	...	...	...	11	1	...	...	...	...	...	...	2	...	...	...
Columbia	2	1	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Dutchess	6	2	1	...	...	1	...	...	...	...	...	...	...	...	...	...	2	...	...	...
Erie	43	1	12	...	...	9	...	...	6	...	...	...	...	...	1	...	12	...	...	2
Essex	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	3	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Genesee	1	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Greene	4	...	...	...	1	1	...	...	...	...	...	...	...	...	...	...	2	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Jefferson	2	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	1	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Madison	1	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Monroe	44	3	4	...	...	8	...	...	6	...	...	...	...	...	...	...	23	...	...	...
Montgomery	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	7	...	3	...	...	...	...	...	...	...	...	...	...	...	...	...	4	...	...	...
Niagara	7	...	3	...	...	...	...	...	...	...	...	...	...	...	...	...	4	...	...	...
Oneida	7	...	2	...	...	...	...	...	1	...	...	...	...	...	...	...	4	...	...	...
Onondaga	7	...	3	...	...	...	...	...	...	...	...	...	...	...	...	...	4	...	...	...
Ontario	3	...	...	...	...	1	...	...	1	...	...	...	...	...	...	...	1	...	...	...
Orange	13	5	2	...	2	...	...	...	...	...	...	...	...	...	...	...	4	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	3	...	3	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Saratoga	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	2	...	...	...
Schenectady	6	...	...	...	...	2	4	...	...	...	...	...	...	...	...	...	...	...	...	...
Schoharie	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Steuben	1	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Suffolk	7	...	2	...	...	3	...	...	...	...	...	...	...	...	...	...	2	...	...	...
Sullivan	3	3	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Ulster	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	2	...	...	...
Warren	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Washington	1	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	2	...	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Westchester	18	1	4	...	1	4	3	...	...	...	...	...	...	...	...	...	4	...	...	1
Wyoming	6	...	...	...	...	1	...	...	4	...	1	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...

*For the purpose of compiling this table, only one disposition per petition was considered. If more than one disposition was reported, the one deemed to be the most significant was used.

Table 71

FAMILY COURT

Dispositions of Child Protective Proceedings Involving Child Abuse (Girls Only)*

Jan. 1, 1979 through Dec. 30, 1979

Region County	Total	With drawn	Dis missed	Judg ment Sus pended	Re leased to Parent or Other Person	Re leased to Parent of Other Person Under Social Ser vices Depart ment Super vision	Re leased to Parent or Other Person Under Pri vate Agency Super vision	Pro bation	Order of Pro tec tion	Trans ferred to a Court With Crim inal Juris dic tion	Trans ferred to Family Court in Another County	Con sol idated With An other Child Pro tec tive Pro ceed ing	Con sol idated With Family Of fense Pro ceed ing	Con sol idated With Sup port Pro ceed ing	Re moval of Child From Home and Place ment With Rel ative	Re moval of Child From Home and Place ment With Non Rel ative	Re moval of Child From Home and Place ment With Public Social Ser vices Depart ment or Officer	Re moval of Child From Home and Place ment With Pri vate Insti tution	Re moval of Child From Home and Place ment With Other Author ized Agency	Other
Total New York State	692	63	183	7	27	101	6		72		9				6		208			10
Total New York City	300	31	96		17	36	2		23		3				1		84			8
New York	113	7	24		5	15	1		14								47			
Kings	80	11	42		1	4			5						1		11			2
Queens	33	4	15		3						3						8			
Bronx	69	9	15		8	17	1		3								15			1
Richmond	5								1								3			1
Total Upstate	392	32	87	7	10	65	4		49		6				2		124			6
Albany	1		1																	
Allegany	4					1			1		1						1			
Broome	13		1	4		2			2								4			
Cattaraugus	3	1									1						1			
Cayuga																				
Chautauqua																				
Chemung	3	1															2			
Chenango																				
Clinton	7	1							6											
Columbia	7	3	1		1	1											1			
Cortland																				
Delaware	4			1		1											2			
Dutchess	14		1			4											8			1
Erie	70	1	28		2	16			3								13			1
Essex																				
Franklin	2					1			1											
Fulton	8	2	2			2											2			
Genesee	7	3	1			1											2			
Greene	3				3															
Hamilton																				
Herkimer																				
Jefferson	1										1									
Lewis																				
Livingston	5		4														1			
Madison																				
Monroe	69	1	11			5			17		1						14			
Montgomery	1					1														
Nassau	19	1	1			6			5								6			
Niagara	6		1														5			
Oneida	4		2														2			
Onondaga	16		5			3											8			
Ontario	3				2				1											
Orange	24	5	7			3			1								5			
Orleans																				
Oswego																				
Otsego																				
Putnam																				
Rensselaer																				
Rockland	8	1	5			2														
St. Lawrence	6		2			1											3			
Saratoga	3								2								1			
Schenectady	13	2				3	1										5			
Schoharie																				
Schuyler	1					1														
Seneca	1					1														
Steuben	6	3	2														1			
Suffolk	19	6	3			5											5			
Sullivan	7		5	1													1			
Tioga	1					1														
Tompkins	1			1																
Ulster	6																6			
Warren																				
Washington	3				1				1						1					
Wayne	3		2						1											
Westchester	15	1	1		1	4	1		4		1						2			
Wyoming	5		1						2		1				1					
Yates																				

*For the purpose of compiling this table, only one disposition per petition was considered. If more than one disposition was reported, the one deemed to be the most significant was used.

Table 72

FAMILY COURT
Child Protective Petitions Involving Child Abuse, by Sex
Disposed of Between

Jan. 1, 1979 through Dec. 30, 1979

Region County	Boys			Girls		
	Total	Petition Filed Prior To Jan. 1, 1979	Petition Filed On Or After Jan. 1, 1979	Total	Petition Filed Prior To Jan. 1, 1979	Petition Filed On Or After Jan. 1, 1979
Total New York State	504	272	232	692	357	335
Total New York City	277	171	106	300	173	127
New York	107	56	51	113	55	58
Kings	88	69	19	80	54	26
Queens	20	16	4	33	25	8
Bronx	58	28	30	69	35	34
Richmond	4	2	2	5	4	1
Total Upstate	227	101	126	392	184	208
Albany	1	1		1	1	
Allegany	4		4	4		4
Broome	2		2	13	1	12
Cattaraugus	2	1	1	3	1	2
Cayuga						
Chautauqua						
Chemung				3	2	1
Chenango						
Clinton	14		14	7	1	6
Columbia	2	1	1	7	1	6
Cortland						
Delaware				4		4
Dutchess	6		6	14	10	4
Erie	43	21	22	70	33	37
Essex						
Franklin				2		2
Fulton	3	2	1	8	4	4
Genesee	1	1		7	3	4
Greene	4		4	3		3
Hamilton						
Herkimer						
Jefferson	2		2	1		1
Lewis						
Livingston	1		1	5		5
Madison	1		1			
Monroe	44	33	11	69	56	13
Montgomery				1	1	
Nassau	7	6	1	19	11	8
Niagara	7	2	5	6	1	5
Oneida	7	3	4	4	4	
Onondaga	7	3	4	16	7	9
Ontario	3	2	1	3	3	
Orange	13	4	9	24	3	21
Orleans						
Oswego						
Otsego						
Putnam						
Rensselaer						
Rockland	3		3	8	2	6
St. Lawrence				6	5	1
Saratoga	2		2	3		3
Schenectady	6		6	13		13
Schoharie	1		1			
Schuyler				1		1
Seneca				1	1	
Steuben	1		1	6	1	5
Suffolk	7	3	4	19	12	7
Sullivan	3	1	2	7	4	3
Tioga				1	1	
Tompkins				1	1	
Ulster	2	2		6	4	2
Warren	1		1			
Washington	1		1	3		3
Wayne	2	1	1	3		3
Westchester	18	13	5	15	9	6
Wyoming	6	1	5	5	1	4
Yates						

Table 73

FAMILY COURT
Child Abuse Part Statistics, by Sex*

Jan. 1, 1979 through Dec. 30, 1979

Region County	BOYS						GIRLS					
			Courts Having Child Abuse Part			Courts Not Having Child Abuse Part			Courts Having Child Abuse Part			Courts Not Having Child Abuse Part
	Total	Dispositions Not Indicating Whether Court Has a Child Abuse Part	Dispositions in Child Abuse Part	Dispositions in Other Than Child Abuse Part	Dispositions Not Indicating Where Disposed	Dispositions	Total	Dispositions Not Indicating Whether Court Has a Child Abuse Part	Dispositions in Child Abuse Part	Dispositions in Other Than Child Abuse Part	Dispositions Not Indicating Where Disposed	Dispositions
Total New York State	473	10	304	6		153	667	34	362	9		262
Total New York City	258	3	245	6		4	288	16	257	9		6
New York	106		106				110		109	1		
Kings	76		71	5			75		69	6		
Queens	20		20				33	2	31			
Bronx	52	3	47	1		1	65	14	47	2		2
Richmond	4		1			3	5		1			4
Total Upstate	215	7	59			149	379	18	105			256
Albany	1					1	1					1
Allegany	4	1				3	4					4
Broome	2					2	13	4	1			8
Cattaraugus	2					2	3	1				2
Cayuga												
Chautauqua												
Chemung							3	1				2
Chenango												
Clinton	8					8	6					6
Columbia	2					2	7					7
Cortland												
Delaware							2					2
Dutchess	6					6	14					14
Erie	42		42				70	1	69			
Essex												
Franklin							2					2
Fulton	3					3	8					6
Genesee	1					1	7	1				3
Greene	4	1				3	3					
Hamilton												
Herkimer												
Jefferson	2					2	1					1
Lewis												
Livingston	1					1	5					5
Madison	1					1						
Monroe	42					42	67	3				64
Montgomery							1	1				
Nassau	5					5	15	1				14
Niagara	7	1				6	6					6
Oneida	7					7	4	1				3
Onondaga	7		7				16		16			
Ontario	2		2				3		3			
Orange	13					13	24					24
Orleans												
Oswego												
Otsego												
Putnam												
Rensselaer												
Rockland	3		1			2	8	1				7
St. Lawrence							5	1				4
Saratoga	2					2	3					3
Schenectady	6		1			5	11					11
Schoharie	1					1						
Schuyler							1					1
Seneca							1					1
Steuben	1					1	6					6
Suffolk	7	2	4			1	18	1	14			3
Sullivan	3					3	7					7
Tioga							1					1
Tompkins							1					1
Ulster	2					2	6					6
Warren	1					1						
Washington	1					1	3					3
Wayne	2					2	3					3
Westchester	15	2	1			15	15	1	2			12
Wyoming	6		1			5	5					5
Yates												

*This table includes only cases in which the reason for petition was abuse or both abuse and neglect regardless of court finding.

Table 74

FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Boys Only)*
Detention by Region and County

Jan. 1, 1979 through Dec. 30, 1979

Region & County	Total**	Not Detained	Detained		Length of Detention after Petition							
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days Or More
Total New York State	5,289	4,427	34	855	127	84	100	123	284	111	22	4
Total New York City	1,479	1,060	23	397	44	30	40	58	146	59	19	3
New York	241	186	17	54	20	2	3	6	13	4	5	1
Kings	600	443	6	156	10	21	20	19	57	22	6	1
Queens	273	221	.....	52	2	1	8	11	23	6	1	.....
Bronx	315	194	.....	121	10	6	7	18	49	24	6	1
Richmond	50	36	.....	14	2	.....	2	2	4	3	1	.....
Total Upstate	3,810	3,367	11	458	83	54	60	67	138	52	3	1
Albany	182	122	.....	60	6	6	19	14	10	5	.....	.....
Allegany	5	5	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Broome	69	67	1	1	1	.....	.....	.....	.....	.....	.....	.....
Cattaraugus	20	19	.....	1	1	.....	.....	.....	.....	.....	.....	.....
Cayuga	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chautauqua	45	45	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chemung	65	64	.....	1	.....	.....	.....	.....	1	.....	.....	.....
Chenango	10	10	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Clinton	13	11	.....	2	.....	.....	.....	2	.....	.....	.....	.....
Columbia	18	15	.....	3	1	.....	.....	1	1	.....	.....	.....
Cortland	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Delaware	12	12	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Dutchess	121	112	1	8	2	.....	.....	5	1	.....	.....	.....
Erie	445	374	1	71	10	3	7	6	24	20	1	.....
Essex	11	10	.....	1	.....	.....	.....	.....	1	.....	.....	.....
Franklin	11	10	.....	1	.....	.....	.....	.....	1	.....	.....	.....
Fulton	25	21	2	3	1	.....	.....	2	.....	.....	.....	.....
Genesee	36	35	.....	1	1	.....	.....	.....	.....	.....	.....	.....
Greene	15	15	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Hamilton	1	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Herkimer	10	10	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Jefferson	54	54	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Lewis	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Livingston	12	12	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Madison	31	26	.....	5	.....	1	1	3	.....	.....	.....	.....
Monroe	284	245	.....	39	5	5	5	3	16	5	.....	.....
Montgomery	31	29	.....	2	.....	.....	1	.....	1	.....	.....	.....
Nassau	376	366	.....	10	3	5	2	.....	.....	.....	.....	.....
Niagara	76	74	.....	2	2	.....	.....	.....	.....	.....	.....	.....
Oneida	53	52	.....	1	1	.....	.....	.....	.....	.....	.....	.....
Onondaga	229	148	.....	81	19	11	7	9	24	10	1	.....
Ontario	18	17	1	1	1	.....	.....	.....	.....	.....	.....	.....
Orange	87	82	.....	5	.....	.....	2	2	1	.....	.....	.....
Orleans	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Oswego	10	8	.....	2	2	.....	.....	.....	.....	.....	.....	.....
Otsego	5	3	.....	2	.....	.....	.....	.....	2	.....	.....	.....
Putnam	5	5	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Rensselaer	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Rockland	40	37	1	2	.....	.....	.....	.....	2	.....	.....	.....
St. Lawrence	32	32	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Saratoga	31	28	1	2	.....	1	2	.....	.....	.....	.....	.....
Schenectady	69	58	.....	11	1	1	.....	6	3	.....	.....	.....
Schoharie	21	20	1	1	.....	1	.....	.....	.....	.....	.....	.....
Schuyler	3	2	.....	1	.....	1	.....	.....	.....	.....	.....	.....
Seneca	11	11	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Steuben	41	40	.....	1	.....	1	.....	.....	.....	.....	.....	.....
Suffolk	687	606	.....	81	13	10	6	13	36	3	.....	.....
Sullivan	27	27	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Tioga	16	14	.....	2	1	1	.....	.....	.....	.....	.....	.....
Tompkins	29	23	.....	6	.....	1	3	.....	1	.....	.....	.....
Ulster	58	56	.....	1	.....	.....	.....	.....	1	.....	.....	.....
Warren	16	12	1	4	1	.....	1	.....	.....	2	.....	.....
Washington	34	33	.....	1	.....	1	.....	.....	.....	.....	.....	.....
Wayne	34	30	.....	4	1	1	1	.....	1	.....	.....	.....
Westchester	271	232	1	38	10	4	3	1	11	7	1	1
Wyoming	7	7	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Yates	1	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

*This table is based on the following reported original petitions disposed of (Boys only): 5006 PINS petitions, plus 283 PINS petitions substituted for Juvenile Delinquency petitions (29 in New York City and 254 outside New York City), regardless of court finding.

**Figures in columns 2, 3, and 4 exceed total because some proceedings are included in both column 3 and 4. There were 27 such proceedings statewide.

Table 75

FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Girls Only)*
Detention by Region and County
Jan. 1, 1979 through Dec. 30, 1979

Region County	Total**	Not Detained	Detained		Length of Detention After Petition							
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days Or More
Total New York State	4,729	3,824	50	894	137	97	96	107	310	121	22	4
Total New York City	1,593	1,129	34	460	68	48	41	50	156	75	20	4
New York	297	210	30	84	29	6	11	4	18	12	4	
Kings	678	493	4	184	23	31	16	13	60	29	9	3
Queens	271	205		66	5	3	3	14	26	8	1	
Bronx	279	171		108	5	7	5	16	47	21	6	1
Richmond	68	50		18	4	1		3	5	5		
Total Upstate	3,136	2,695	16	434	71	49	55	57	154	46	2	
Albany	154	101		53	3	3	16	6	22	3		
Allegany	4	4										
Broome	79	76	1	2	1		1					
Cattaraugus	23	23										
Cayuga												
Chautauqua	38	38										
Chemung	38	38										
Chenango	15	13		2	2							
Clinton	16	11		5	1			4				
Columbia	14	12		2			2					
Cortland												
Delaware	11	11										
Dutchess	110	98	1	12	1	3	1	1	2	1		
Erie	413	350		63	12	1	5	6	24	15		
Essex	6	6										
Franklin	16	15		1		1						
Fulton	22	21	1									
Genesee	11	10		1		1						
Greene	14	14										
Hamilton												
Herkimer	11	11										
Jefferson	34	34										
Lewis												
Livingston	8	8										
Madison	20	20										
Monroe	277	210		67	11	12	8	8	25	2	1	
Montgomery	25	20		5	1	1		3				
Nassau	295	284		11	3	6	1		1			
Niagara	49	47		2	1	1						
Oneida	45	43		2				1	1			
Onondaga	205	139		66	12	9	4	5	30	6	1	
Ontario	29	25	1	3			1	2				
Orange	88	82		6	1			1	2	2		
Orleans												
Oswego	8	7		1	1							
Otsego	3	3										
Putnam	9	8		1					1			
Rensselaer												
Rockland	40	34		6	1	1			3	1		
St. Lawrence	13	13										
Saratoga	27	24		3		2		1				
Schenectady	57	54		3	1		1	1				
Schoharie	5	3	1	1			1					
Schuyler	3	1		2		1		1				
Seneca	12	11		1					1			
Steuben	47	45		2	1		1					
Suffolk	469	419		50	6	5	7	3	23	5		
Sullivan	25	24		1			1					
Tioga	10	10										
Tompkins	20	18		2	1			1				
Ulster	47	45		2	1			1				
Warren	18	12	4	6	1		3		2			
Washington	22	17	3	2	1	1						
Wayne	28	24		4	3			1				
Westchester	196	153	3	43	4	4	2	8	17	8		
Wyoming	7	6		1	1							
Yates												

*This table is based on the following reported original petitions disposed of (girls only): 4,692 PINS petitions, plus 37 PINS petitions substituted for Juvenile Delinquency petitions (2 in New York City and 35 outside New York City), regardless of court finding.

**Figures in columns 2, 3 and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 39 such proceedings statewide.

Table 76

FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Boys Only)*
Nature of Dispositions by Region and County

Jan. 1, 1979 through Dec. 30, 1979

Region County	Total	No Adjudication											Adjudication							
																	Placement			
		Dismissed for Failure of Proof at Fact-Finding Hearing	Other Dismissal at Fact-Finding Hearing	Dismissed at Dispositional Hearing	Dismissed for Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (ACD)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged to Mental Hygiene Institution	Discharged to Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Commr. of Social Services	Division for Youth	Other Placement
Total New York State	5,289	223	1	85	291	346	781	401	798	17	110		2	24	162	1,407	11	448	121	61
Total New York City	1,479	123	1	18	173	224	163	224	333	6	4		2	1	6	90	3	92	8	6
New York	241	5		3	27	21	24	78	49	3					2	14		12		
Kings	600	24	1	6	120	141	84	20	120	1	4		1	1	1	43	3	29		1
Queens	274	77		2	4	14	8	10	89	1			1			14		23	5	5
Bronx	315	12		1	10	45	43	89	69	1					3	15		24	3	
Richmond	50	5		4	14	3	4	6	6							4		4		
Total Upstate	3,810	100		67	116	122	618	177	465	11	106			23	156	1,317	8	356	113	55
Albany	182	10		11	1	6	41	2	9	1	24			4	10	35		19	6	
Allegany	5							1	1							1			2	
Broome	69	1			2			3	1						8	34		14	6	
Cattaraugus	20			1	1	2	3	2			2					2		5		
Cayuga																				
Chautauqua	45	1		1	2		2	2							2	23		8	1	
Chemung	65	2					4		1		5				2	40		11		
Chenango	10					2	1	1								3		3		
Clinton	14					1		1								8		3		
Columbia	18	1					3		2							8		2	2	
Cortland																				
Delaware	12	1					2								2	6		1		
Dutchess	121	3			2	6	18	11	28		3				4	34		11	2	1
Erie	443	34		11	15	17	124	11	37	1					9	85	2	7	42	50
Essex	11							1								7		2	1	
Franklin	11														1	7		3		
Fulton	25					1	6	2	1							8		6	1	
Genesee	36						4		4	1	1					17	1	6	2	
Greene	15					3	1		1							6		1	3	
Hamilton	1															1				
Herkimer	10					1	1	1	3							2		1		1
Jefferson	54	4				1	2							14	3	30	1			
Lewis																				
Livingston	12	1				1	3		1							4		2		
Madison	31				1		10		1	1						13		5		
Monroe	284	2			2	16	83	57	7						22	70		25		
Montgomery	31						1		1		1				5	16		5		
Nassau	176	9		3	10	6	15	4	39	2	28				29	178		9	4	
Niagara	56	2		1	1	1	3	1	17						2	25		15	8	
Oneida	53			1	2	4	2	3	5						2	22		3	9	
Onondaga	229	1			14	5	58	23	39		1				5	47		35	1	
Ontario	18			1			1	1								10		5		
Orange	87			1		2	10	11	15		3			1	5	30		8	1	
Orleans																				
Oswego	10			1			1								2	6				
Otsego	5															2		3		
Putnam	5						1		1							2				1
Rensselaer																				
Rockland	40				1	2	2	1	9					1		18	1	7	1	
St. Lawrence	32				1	6	4	1	3	1					1	7		8		
Saratoga	31				3	1	7	2	2		1					5		10		
Schenectady	69						5	5	6		3					27		20	3	
Schoharie	21	1					1	1	4						1	11		2		
Schuyler	3															1			2	
Seneca	11				1		6	1							2	1				
Steuben	41	6			2		11	5	1		1			1	1	9		4		
Suffolk	687	12		29	42	11	113	5	133					1	18	288		30	4	1
Sullivan	27				1	4	3		2							14		1	2	
Tioga	16	2					1		1					1		5		6		
Tompkins	28	2					2	3	2							14		4	1	
Ulster	56			1		2	11		12						2	13	2	5	8	
Warren	16						1									7		6	1	1
Washington	34								1						2	28		3		
Wayne	34	1			2	3	6	3	10							2	1	6		
Westchester	271	4		5	7	18	17	12	48	4	33				16	82		25		
Wyoming	7						4									2		1		
Yates	1															1				

*This table is based on the following reported original petitions disposed of (boys only): 5006 PINS petitions, plus 282 PINS petitions substituted for Juvenile Delinquency petitions (29 in New York City and 254 outside New York City), regardless of court finding.

Table 77

FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Girls Only)*
Nature of Dispositions by Region and County

Jan. 1, 1979 through Dec. 30, 1979

Region County	Total	No Adjudication											Adjudication							
																	Placement			
		Dismissed for Failure of Proof at Fact Finding Hearing	Other Dismissal at Fact Finding Hearing	Dismissed at Dispositional Hearing	Dismissed for Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (ACD)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged to Mental Hygiene Institution	Discharged to Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm of Social Services	Division for Youth	Other Placement
Total New York State	4,729	212		65	238	357	668	364	759	13	37			21	130	1,076	16	428	96	51
Total New York City	1,593	129		24	135	358	161	271	326	3	2				2	77	3	86	10	6
New York	297	3		7	26	21	24	126	47	1					1	14		25	2	
Kings	678	19		1	91	280	71	25	133							32	5	21	2	
Queens	271	90		7	2	11	8	38	77	2						14		17	3	2
Bronx	279	6		1	7	42	49	68	65		1				1	13		20	1	4
Richmond	68	11		8	9	4	9	14	4		1					1		3	2	
Total Upstate	3,136	83		41	103	99	507	193	433	8	35			21	128	99	13	342	86	45
Albany	154	8		8	5	6	31		10		10			4	3	54	1	1	3	
Allegany	4					1			1							1		1		
Broome	79	2			1	2	2	7		2					7	26	1	25	4	
Cattaraugus	23					1	7	2	2							6	1	4		
Cayuga																				
Chautauqua	38			1	4		3	3						1		19		7		
Chemung	38								3		2			4	5	13		11	3	
Chenango	15			1	1	1	1	2								4		5		
Clinton	16								1						2	6		7		
Columbia	14					1	2		2							5			4	
Cortland																				
Delaware	11						3	1	1						1	3				2
Dutchess	110	2			4	2	15	15	17	1					4	34	1	13	1	1
Erie	413	31		6	17	15	111	17	41						6	83	4	12	29	41
Essex	6	1		1		1		1								1		1		
Franklin	16					1	1	1	2							6		5		
Fulton	22						6	1	4	1						5		5		
Genesee	11	1			1		3	1								3		1	1	
Greene	14	3				1	1		3	1						3		3	1	
Hamilton																				
Herkimer	11	1				1	1	1	2	1						4		2		
Jefferson	34	3			3	1	3	1			1			3	2	17				
Lewis																				
Livingston	8						2		1							4		1		
Madison	20	1					9		1						2	4		3		
Monroe	277	2			1	13	63	49	11						42	80	1	23	1	
Montgomery	25				2		4	1							3	13		2		
Nassau	295	2		1	6	10	24	6	42		6			1	18	168	8	10	2	
Niagra	49	1			1	1		2	6					3		24		4	7	
Oneida	45	2		1		6		1	7		1					18		2	10	
Onondaga	205				10	3	40	38	29		1				5	13		22	8	
Ontario	29						1	2	3					2		9		12		
Orange	88	1				1	9	7	13						1	39		16	1	
Orleans																				
Oswego	8			1					2					1		3		1		
Otsego	3					1												2		
Putnam	9						1	1	1							5				1
Rensselaer																				
Rockland	40	2			1	3		2	2					4		17		9		
St. Lawrence	13	2				4		1							1		1	4		
Saratoga	27				4	2	5	1	4						4	5		5		
Schenectady	57	1		1	1		6	5	6	1	1				1	20		14		
Schoharie	5						2		1							1			1	
Schuyler	3								1									1	1	
Seneca	12				2		6		1						1		1	1		
Steuben	47	2		2			10	1	3	1	3					10		15		
Suffolk	169	8		18	29	5	91	3	133						9	144		29		
Sullivan	25					1	2	2	8	1	2				1	7			1	
Tioga	10								2									5	3	
Tompkins	20						4		4						1	8		3		
Ulster	47					2	15	3	12							8		3	4	
Warren	18	3							6							2		7		
Washington	22					1	3		3						2	10	2	1		
Wayne	28	2				2	4	5	1						3	3		8		
Westchester	196	2			10	10	13	9	43		8			1	17	57		25	1	
Wyoming	7						3									3		1		
Yates																				

*This table is based on the following reported original petitions disposed of (girls only): 4,692 PINS petitions, plus 37 PINS petitions substituted for Juvenile Delinquency petitions (2 in New York City and 35 outside New York City), regardless of court finding.

Table 78

FAMILY COURT
Original Petitions Initially Disposed
Reasons for Juvenile Delinquency Proceedings by Sex and by Region
Jan. 1, 1979 through Dec. 30, 1979

Reasons*	New York City			Counties Outside New York City			Statewide		
	Boys Percent	Girls Percent	Both Percent	Boys Percent	Girls Percent	Both Percent	Boys Percent	Girls Percent	Both Percent
Homicide	0 (7)	0 (1)	0 (8)	0 (5)	0 (1)	0 (6)	0 (12)	0 (2)	0 (14)
Kidnapping	0 (45)	1	0 (54)	0 (2)	0 (1)	0 (3)	0 (47)	0 (10)	0 (57)
Rape	0 (41)	0 (0)	0 (41)	0 (25)	0 (0)	0 (25)	0 (66)	0 (0)	0 (66)
Other Sex Offenses	1	0 (2)	1	1	0 (3)	1	1	0 (5)	1
Robbery	9	8	9	3	2	2	6	5	6
Assault or Related Offense	8	17	8	6	13	7	7	15	8
Criminal Sale Control Substance	0 (43)	0 (1)	0 (44)	0 (50)	0 (1)	0 (51)	0 (93)	0 (2)	0 (95)
Criminal Possession Control Subst.	1	1	1	1	1	1	1	1	1
Other Drug Offense	0 (19)	0 (5)	0 (24)	0 (16)	0 (1)	0 (17)	0 (35)	0 (6)	0 (41)
Criminal Possession of Weapon	4	6	5	1	1	1	3	3	3
Burglary or Related Offense	12	5	11	28	12	27	21	9	18
Criminal Trespass	8	3	8	4	3	4	6	3	6
Arson	0 (48)	1	0 (58)	1	1	1	1	1	1
Grand Larceny – Auto	3	2	3	1	0 (6)	1	2	1	2
Grand Larceny	12	13	12	7	5	7	10	8	10
Petit Larceny	6	9	6	17	34	19	11	22	12
Criminal Possession of Stolen Prop.	19	18	19	6	5	6	12	11	12
Other Theft	4	3	4	5	4	5	4	4	4
Criminal Mischief	8	4	8	11	5	10	9	5	9
Gambling	0 (3)	0 (1)	0 (4)	0 (1)	0 (0)	0 (1)	0 (4)	0 (1)	0 (5)
Prostitution	0 (2)	1	0 (10)	0 (3)	1	0 (19)	0 (5)	1	0 (29)
Other Crimes	5	8	5	8	13	8	6	11	7
Total	100 (13,552)	100 (1,297)	100 (14,849)	100 (12,210)	100 (1,072)	100 (13,882)	100 (25,762)	100 (2,969)	100 (28,731)

*Due to the reporting of multiple reasons for some petitions, the number of reasons exceeds the number of petitions.
Note: Figures in parentheses represent the number of reasons. They are given for totals and where the sum is less than 0.5%.

Table 79

FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquency Proceedings (Boys Only)*
Detention by Region and County

Jan. 1, 1979 through Dec. 30, 1979

Region County	Total**	Not Detained	Detained		Length of Detention After Petition							
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days or More
Total New York State	15,757	13,215	183	2,496	859	354	274	256	593	134	23	3
Total New York City	5,906	4,668	28	1,223	554	136	105	81	233	91	20	3
New York	1,130	869	15	253	99	26	15	17	53	30	13	
Kings	1,863	1,522	6	337	176	26	21	19	68	24	2	1
Queens	1,229	989	2	238	126	31	28	15	31	7		
Bronx	1,479	1,132	5	346	140	45	38	25	64	27	5	2
Richmond	205	156		49	13	8	3	5	17	3		
Total Upstate	9,851	8,547	155	1,273	305	218	169	175	360	43	3	
Albany	431	348		83	2	4	14	18	45			
Allegany	11	11										
Broome	217	215	1	1	1							
Cattaraugus	78	54	15	24	1		15		8			
Cayuga												
Chautauqua	156	148		8	4	1	2		1			
Chemung	106	104		2		1			1			
Chenango	40	37		3		1	1	1				
Clinton	32	26		6	1			5				
Columbia	15	13		2	2							
Cortland												
Delaware	37	35		2	1			1				
Dutchess	420	382	3	36	7	14	2	7	6			
Erie	1,177	1,063	4	113	21	11	14	14	48	5		
Essex	70	62		8		5			3			
Franklin	38	37		1							1	
Fulton	30	28		2			1	1				
Genesee	42	41		1		1						
Greene	6	6										
Hamilton	2	2										
Herkimer	32	32										
Jefferson	133	133										
Lewis	1	1										
Livingston	38	38										
Madison	48	47		1		1						
Monroe	707	503	10	203	52	37	30	21	50	12	1	
Montgomery	18	16		2	1			1				
Nassau	1,185	1,069		116	39	36	20	12	9			
Niagara	152	137	3	14	5	4	2		3			
Oneida	105	90	2	14	4	1		2	7			
Onondaga	457	298	8	159	33	30	20	20	45	11		
Ontario	49	36	8	11	2	3	1	2	1	2		
Orange	389	329	35	57	1	11	5	16	22	2		
Orleans												
Oswego	31	29	1	2	2							
Otsego	36	36										
Putnam	44	39	2	4		1		3				
Rensselaer												
Rockland	222	205	1	17	6	5		1	4	1		
St. Lawrence	36	36										
Saratoga	164	141	6	20	2	2	7	4	5			
Schenectady	124	111		13	3	2	1	5	2			
Schoharie	32	20	1	11	2	5	2	1	1			
Schuyler	2	2										
Seneca	17	13		4	3		1					
Steuben	51	49		2	1		1					
Suffolk	1,595	1,450	1	145	52	19	14	12	45	3		
Sullivan	96	95		1			1					
Tioga	15	15										
Tompkins	75	54		21	6	2	4		9			
Ulster	143	136		7	1	4			2			
Warren	60	55	2	4	3			1				
Washington	55	42	5	10	2		1	3	4			
Wayne	62	55	2	6		3		1	2			
Westchester	747	602	39	136	44	14	10	23	37	7	1	
Wyoming	21	20		1	1							
Yates	1	1										

*This table is based on the following reported original petitions disposed of (boys only) 16,040 Juvenile Delinquency petitions minus 283 Juvenile Delinquency petitions for which there were substituted PINS petitions (29 in New York City and 254 outside New York City); regardless of court finding.

**Figures in columns 2, 3, and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 137 such proceedings statewide.

Table 80

FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquency Proceedings (Girls Only)*
Detention by Region and County

Jan. 1, 1979 through Dec. 30, 1979

Region County	Total**	Not Detained	Detained		Length of Detention After Petition							
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days or More
Total New York State	2,123	1,794	29	322	98	52	35	40	76	13	8	
Total New York City	630	516	10	112	45	20	4	12	23	6	2	
New York	162	127	10	33	15	6	1		9	1	1	
Kings	161	136		25	12	4		3	6			
Queens	129	110		19	7	1	2	5	4			
Bronx	142	115		27	6	7	1	4	4	4	1	
Richmond	36	28		8	5	2				1		
Total Upstate	1,493	1,278	19	210	53	32	31	28	53	7	6	
Albany	92	66		26	3	2	5	6	10			
Allegany												
Broome	30	27	2	1	1							
Cattaraugus	6	6										
Cayuga												
Chautauqua	9	9										
Chemung	11	11										
Chenango	4	4										
Clinton	2	2										
Columbia	3	3										
Cortland												
Delaware	6	6										
Dutchess	60	52	2	8	1	1	1		5			
Erie	254	234	5	20	5	2	1	4	5	2	1	
Essex	5	5										
Franklin	4	4										
Fulton	3	2		1	1							
Genesee	5	3		2	2							
Greene	1			1	1							
Hamilton												
Herkimer	6	6										
Jefferson	24	24										
Lewis												
Livingston	2		1	1			1					
Madison	8	6		2			2					
Monroe	115	86	2	29	6	5	2	1	9	2	4	
Montgomery	3	2	1									
Nassau	198	170		28	7	10	5	3	3			
Niagara	6	5		1	1							
Oneida	18	14	1	4				1	3			
Onondaga	89	65		24	8	4	3	3	6			
Ontario	8	6	2	1		1						
Orange	39	34		5			2		2	1		
Orleans												
Oswego	3	3										
Otsego	4	3	1	1					1			
Putnam	6	6										
Rensselaer												
Rockland	35	34		1		1						
St. Lawrence	8	8										
Saratoga	20	18		2	1			1				
Schenectady	7	6		1							1	
Schoharie	7	5	1	2	1		1					
Schuyler												
Seneca	1	1										
Steuben	21	19		2		1				1		
Suffolk	178	158		20	5	4	3	4	4			
Sullivan	16	13		3			2		1			
Tioga	2	2										
Tompkins	11	10		1			1					
Ulster	17	15		2	2							
Warren	11	9		2	1		1					
Washington	6	5		1					1			
Wayne	9	5		4	1	1	1		1			
Westchester	112	100	1	12	4			5	2	1		
Wyoming	8	6		2	2							
Yates												

*This table is based on the following reported original petitions disposed of (girls only): 2,160 Juvenile Delinquency petitions minus 37 Juvenile Delinquency petitions for which there were substituted PINS petitions (2 in New York City and 35 outside New York City), regardless of court finding.

**Figures in columns 2, 3 and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 22 such proceedings statewide.

Table 81

FAMILY COURT

Original Petitions Initially Disposed

Juvenile Delinquency Proceedings (Boys Only)*

Nature of Dispositions by Region and County

Jan. 1, 1979 through Dec. 30, 1979

Region / County	Total	No Adjudication											Adjudication									
																	Placement					
		Dismissed for Failure of Proof at Fact Finding Hearing	Other Dismissal at Fact-Finding Hearing	Dismissed at Dispositional Hearing	Dismissed for Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (ACD)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged to Mental Hygiene Institution	Discharged to Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division for Youth Title 2	Division for Youth Title 3	Restrictive Placement (DFY) 5 Yrs.	Restrictive Placement (DFY) 3 Yrs.	Other Placement
Total New York State	15,757	831	20	263	653	718	4,170	1,396	1,292	430	503	1		18	651	3,199	14	614	382	528	2	5	67
Total New York City	5,906	481	8	64	397	371	1,516	788	680	197	17			1	130	751		119	229	140	2	2	13
New York	1,130	54	2	9	148	48	124	195	84	150	3				45	129		43	55	30	1	2	8
Kings	1,863	38		11	180	217	631	229	182	2	3			1	9	293		25	28	13			1
Queens	1,229	307	2	27	22	18	306	80	209	36	4				15	106		7	54	35			1
Bronx	1,479	61	2	16	35	81	400	247	191	6	2				49	199		39	91	56	1		3
Richmond	205	21	2	1	12	7	55	37	14	3	5				12	24		5	1	6			
Total Upstate	9,851	350	12	199	256	347	2,654	608	612	233	486	1		17	521	2,448	14	495	153	388		3	54
Albany	431	21		10	10	8	168	7	4	13	2			2	27	80	1	27	6	45			
Allegany	11			1			4	2								4							
Broome	217	20	2	2	4	1		49	1	8					10	74		19	4	20		1	2
Cattaraugus	78	8				5	16	4		2					1	12		24	3	3			
Cayuga																							
Chautauqua	156	5			1	2	31	7		5					6	67		10	10	12			
Chemung	106	1					3	1		4	12				5	29		37		14			
Chenango	40			3		2	5	3			3				3	11		10					
Clinton	32			2			1								5	14		8		2			
Columbia	15						4									10				1			
Cortland																							
Delaware	37	1				1	11				1				3	14		1	3	2			
Dutchess	420	18		2	5	8	116	58	25	1	25	1			28	77	1	29	2	22			2
Erie	1,177	115		6	33	108	554	6	24	1	1			1	35	186		4	18	44		1	40
Essex	70					29	3	21	3						1	2		1	4	6			
Franklin	38	3					3		4							23		4					1
Fulton	30					1	13		1							7		4		4			
Genesee	42	1					6	6	4	2	2				1	11	1	3	2	2			1
Greene	6															2		3	1				
Hamilton	2															2							
Herkimer	32	3				1	5	4								18		1					
Jefferson	133	6		1		3	18	2			7			7	3	77		2		7			
Lewis	1									1													
Livingston	38				2	1	11	2	2							10		3	7				
Madison	48			2			5								8	21		12					
Monroe	707	5		1	1	30	198	117	15	1	17				67	179		25	15	36			
Montgomery	18	1				1	5			1	2					6			1	1			
Nassau	1,185	30		2	1	12	226	6	30	107	197			3	155	340		48	1	27			
Niagara	152	8		7	3		5	1	19					1	9	72		4	23				
Oneida	105	7		1		1	7	8	1		1				1	53		4	11	10			
Onondaga	457	2		2	7	7	205	89	35		2				13	49	1	25	5	15			
Ontario	49			1			7		2	4					2	19	2	8	3				1
Orange	389	6	1	5	5	2	100	83	7	5	17				18	101		5	3	31			
Orleans																							
Oswego	31	2		1		1	1	1	1						2	19		3					
Otsego	36	5				1		1							5	16		5	2	1			
Putnam	44	1		1			15	2	6							15		4					
Rensselaer																							
Rockland	222	12		2	3	9	56	2	29	3				1		86		13		2		1	3
St. Lawrence	36	1		1		4	3		1		1				3	10	1	8	3				
Saratoga	164	2			15	10	61	17	5	5	10					19	1	14	2	3			
Schenectady	124	3			3	4	4	4	7	3	17					57		15	1	6			
Schoharie	32	2				1	3		7							8		5		6			
Schuyler	2															2							
Seneca	17				3		6								2	2		1		3			
Steuben	51	2		5	2	1	9	6	3		1					15		5		2			
Suffolk	1,595	40	9	137	152	40	378	36	289	15				1	64	379		37	1	17			
Sullivan	66					2	35	5	11	4	8				4	18	1	3	2	2			1
Tioga	15	2					4									5		2		2			
Tompkins	75					1	13	20			4					31		4	2				
Ulster	143	2				8	26	17	14	2					3	36	1	5	16	12			1
Warren	60	1				2	19	4	6	1						17		6		3			1
Washington	55						24								2	17	3	5		4			
Wayne	62	1		1	3	3	26	1	1						2	11		12		1			
Westchester	747	11		3	3	37	226	16	54	45	155			1	33	112	1	27	2	20			1
Wyoming	21	2					15		1		1					2							
Yates	1															1							

*This table is based on the following reported original petitions disposed of (boys only): 16,040 Juvenile Delinquency petitions minus 283 Juvenile Delinquency petitions for which there were substituted PINS petitions (29 in New York City and 254 outside New York City); regardless of court finding

Table 82

FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquency Proceedings (Girls Only)*
Nature of Dispositions by Region and County

Jan. 1, 1979 through Dec. 30, 1979

Region / County	Total	No Adjudication											Adjudication									
																	Placement					
		Dismissed for Failure of Proof at Fact-Finding Hearing	Other Dismissal at Fact-Finding Hearing	Dismissed at Dispositional Hearing	Dismissed for Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (ACD)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged to Mental Hygiene Institution	Discharged to Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Commit of Social Services	Division for Youth Title 2	Division for Youth Title 3	Restrictive Placement (DFY) 5 Yrs	Restrictive Placement (DFY) 3 Yrs	Other Placement
Total New York State	2,123	101	3	31	78	128	712	221	164	86	54			1	74	312	3	56	30	66			3
Total New York City	630	54		7	30	67	161	110	58	39					12	66		9	10	7			
New York	162	11		1	13	11	27	35	13	25					7	11		2	4	2			
Kings	161	3			9	17	63	17	5	1						13		3					
Queens	129	30		5	1	3	30	7	26	4					1	17		1	2	2			
Bronx	142	7		1	6	9	34	43	10	1					2	22		3	4	3			
Richmond	36	3			1		7	8	4	8					2	3							
Total Upstate	1,493	47	3	24	48	61	551	111	106	47	54			1	62	246	1	47	20	59			3
Albany	92	5	1	3	1	2	38	2	1	2					1	14		1		13			
Allegany																							
Broome	30	2	1		1			7	2						3	8		3		3			
Cattaraugus	6					1	2	3															
Cayuga																3							
Chautauqua	9	2			1	1	2								1	3		2		2			
Chemung	11						1				2					1	1						
Chenango	1						2											1					
Clinton	2															1			1				
Columbia	3						2																
Cortland																							
Delaware	6						3	1							1	1							
Dutchess	60	2		1	3	1	20	12	2	2	1				3	8		1		4			3
Erie	254	21		2	5	23	150	2	4	5					3	26			3	7			
Essex	5						2	1			1							1					
Franklin	4								2						2								
Fulton	3															2		1					
Genesee	5							1	2		1							1					
Greene	1							1															
Hamilton																							
Herkimer	6															5		1					
Jefferson	24						9	1			2				2	9				1			
Lewis																							
Livingston	2							1										1					
Madison	8			1					1						2			2	2				
Monroe	115	1				8	35	25	4		2				11	29		2		3			
Montgomery	3						2											1					
Nassau	198	7			1	1	51		4	27	29			1	17	50		5	1	9			
Niagara	6	1					2									1			2				
Oneida	18				1			5							1	5		1	2	3			
Onondaga	89					4	44	13	15	1						7			2	2			
Ontario	8						1		2	1						2	1		1				
Orange	39					1	16	9			3					5		3	1	1			
Orleans								1															
Oswego	3															2							
Otsego	4						1									2				1			
Putnam	6			1			3	1	1														
Rensselaer																							
Rockland	35				5	1	10		13							6							
St. Lawrence	8			1		2			1							2		1		1			
Saratoga	20			1	2		10				4					2		1					
Schenectady	7						1		1		2					1		1	1				
Schoharie	7						1		1							1		2	2				
Schuyler																							
Seneca	1																			1			
Steuben	21			1	1		5	7			2					3		2					
Suffolk	178	3		12	24	1	65	5	28	3					3	30				1			
Sullivan	16					2	5		3						1	2		1		2			
Tioga	2	1					1																
Tompkins	11						2	4	1	1					1	2							
Ulster	17					1	8	3									1	2		2			
Warren	11		1				1									4		4		1			
Washington	6						2									2				2			
Wayne	9						1	2	2							3		1					
Westchester	112	2		1		8	50	2	16	5	9				6	10		2	1				
Wyoming	8				1		3	2			1									1			
Yates																							

*This table is based on the following reported original petitions disposed of (girls only): 2,160 Juvenile Delinquency petitions, minus 37 Juvenile Delinquency petitions for which there were substituted PINS petitions (2 in New York City and 35 outside New York City), regardless of court finding.

Table 83

FAMILY COURT
Original Petitions Initially Disposed
Original Allegations* of Family Offense Proceedings by Region

Jan. 1, 1979 through Dec. 30, 1979

Region	Total	Assault	Attempted Assault	Reckless Endanger-ment	Menacing	Disorderly Conduct	Harrassment	Other
Total New York State	20,932	9,346	367	386	1,321	3,961	5,538	13
Total New York City	8,851	4,020	128	131	821	1,519	2,226	6
Total Upstate	12,081	5,326	239	255	500	2,442	3,312	7

*Figures represent the total number of allegations. Since many petitions contain more than one allegation, the total number of such allegations may be greater than the total number of petitions disposed.

Table 84

FAMILY COURT

Family Offense Proceedings

Original Petitions Initially Disposed by Petitioners and Respondents

Jan. 1, 1979 through Dec. 30, 1979

A. New York City

Respondents	Petitioners								
	Total*	Wife of Respondent	Mother of Respondent	Husband of Respondent	Father of Respondent	Daughter of Respondent	Son of Respondent	Other Member Same Family/ Household of Respondent	Other
Husband of Injured Individual	4,594	4,589	1	0	1	0	1	0	2
Father of Injured Individual	54	1	0	0	0	31	17	0	5
Wife of Injured Individual	243	0	0	240	2	0	0	0	1
Mother of Injured Individual	65	0	3	0	1	28	20	3	10
Son of Injured Individual	569	1	425	0	140	0	1	1	1
Daughter of Injured Individual	129	0	112	0	14	2	1	0	0
Other Member of Same Family or Household of Injured Individual	136	0	0	0	0	0	0	133	3
Other	72	0	0	0	0	0	0	0	72
Total	5,862	4,591	541	240	158	61	40	137	94

B. Outside New York City

Respondents	Petitioners								
	Total*	Wife of Respondent	Mother of Respondent	Husband of Respondent	Father of Respondent	Daughter of Respondent	Son of Respondent	Other Member Same Family/ Household of Respondent	Other
Husband of Injured Individual	7,858	7,845	2	0	0	2	1	1	7
Father of Injured Individual	196	44	10	0	1	86	41	5	9
Wife of Injured Individual	561	0	1	556	0	2	0	0	2
Mother of Injured Individual	84	0	0	16	2	34	31	1	0
Son of Injured Individual	810	0	589	0	215	2	0	3	1
Daughter of Injured Individual	164	0	132	0	31	1	0	0	0
Other Member of Same Family or Household of Injured Individual	257	0	32	0	3	1	0	206	15
Other	108	2	7	2	3	0	0	1	93
Total	10,038	7,891	773	574	255	128	73	217	127

C. Statewide

Respondents	Petitioners								
	Total*	Wife of Respondent	Mother of REspondent	Husband of Respondent	Father of Respondent	Daughter of Respondent	Son of Respondent	Other Member Same Family/ Household of Respondent	Other
Husband of Injured Individual	12,452	12,434	3	0	1	2	2	1	9
Father of Injured Individual	250	45	10	0	1	117	58	5	14
Wife of Injured Individual	804	0	1	796	2	2	0	0	3
Mother of Injured Individual	149	0	3	16	3	62	51	4	10
Son of Injured Individual	1,379	1	1,014	0	355	2	3	4	2
Daughter of Injured Individual	293	0	244	0	45	3	1	0	0
Other Member of Same Family or Household of Injured Individual	393	0	32	0	4	1	0	339	18
Other	180	2	7	2	3	0	0	1	165
Total	15,900	12,482	1,314	814	413	189	113	354	221

*This table excludes 2 petitions that were included in Table 85.

Table 85

FAMILY COURT
Dispositions of Family Offense Proceedings by Region and County
All Petitions

Jan. 1, 1979 through Dec. 30, 1979

Region County	Total	Dismissed Failure of Proof	Dismissed Failure To Prosecute	Other Dismissal	Withdrawn	Transfer to Another County	Consolidated With Another Petition	Judgement Suspended	Probation	Order of Protection	Probation And Order of Protection	Other
Total New York State	15,902	272	4,077	1,972	3,095	6	69	39	23	6,187	33	125
Total New York City	5,863	128	2,280	1,312	514	3	18	3	3	1,552	16	32
New York	1,301	22	537	91	135	2	0	1	3	497	8	3
Kings	2,334	59	1,443	270	184	0	17	1	0	327	7	26
Queens	1,202	0	18	613	120	0	0	0	0	450	0	1
Bronx	574	36	12	305	66	1	0	1	0	151	1	1
Richmond	452	11	270	33	9	0	1	0	0	127	0	1
Total Upstate	10,039	144	1,797	660	2,581	3	51	36	20	4,635	17	93
Albany	449	4	106	2	122	0	0	2	3	209	0	1
Allegany	22	0	0	0	3	0	0	0	0	19	0	0
Broome	409	8	96	39	5	0	1	4	0	253	3	0
Cattaraugus	16	1	1	4	3	0	0	0	0	6	1	0
Cayuga	0	0	0	0	0	0	0	0	0	0	0	0
Chautauqua	58	0	26	5	5	0	0	0	0	22	0	0
Chemung	53	0	0	4	8	0	3	0	0	36	0	2
Chenango	35	0	0	1	6	1	1	0	0	24	0	2
Clinton	0	0	0	0	0	0	0	0	0	0	0	0
Columbia	62	5	4	1	25	0	0	0	0	22	0	5
Cortland	0	0	0	0	0	0	0	0	0	0	0	0
Delaware	98	1	11	5	26	0	4	6	1	42	0	2
Dutchess	341	8	49	31	105	0	2	0	1	144	0	1
Erie	823	26	195	12	136	0	3	1	0	449	0	4
Essex	13	0	0	3	5	0	0	0	0	5	0	0
Franklin	68	2	0	8	24	0	0	0	1	33	0	0
Fulton	97	0	9	3	31	0	0	0	0	51	0	3
Genesee	76	3	5	1	24	0	0	0	0	43	0	0
Greene	78	2	4	3	23	0	0	2	0	43	0	1
Hamilton	0	0	0	0	0	0	0	0	0	0	0	0
Herkimer	121	0	10	5	39	0	0	0	0	66	0	1
Jefferson	304	16	27	41	14	0	3	2	1	196	2	2
Lewis	6	0	0	0	2	0	0	0	0	4	0	0
Livingston	0	0	0	0	0	0	0	0	0	0	0	0
Madison	75	1	6	3	22	0	2	1	0	40	0	0
Monroe	180	0	8	56	23	0	0	0	1	91	0	1
Montgomery	78	1	4	4	18	0	0	0	0	50	0	1
Nassau	1,744	24	300	60	600	0	6	11	4	701	4	32
Niagara	110	1	5	10	32	0	0	0	0	62	0	0
Oneida	127	0	23	9	47	0	0	0	0	47	0	1
Onondaga	330	1	64	53	55	0	0	1	0	152	1	3
Ontario	114	4	9	4	24	0	1	0	0	71	0	1
Orange	79	2	0	23	23	0	0	0	0	31	0	0
Orleans	0	0	0	0	0	0	0	0	0	0	0	0
Oswego	32	0	2	0	10	0	1	0	0	19	0	0
Otsego	0	0	0	0	0	0	0	0	0	0	0	0
Putnam	82	0	0	12	40	1	0	0	0	23	1	5
Rensselaer	0	0	0	0	0	0	0	0	0	0	0	0
Rockland	72	2	12	1	21	0	0	0	0	35	0	1
St. Lawrence	103	0	2	21	6	1	2	0	1	68	2	0
Saratoga	98	0	14	6	23	0	0	0	0	55	0	0
Schenectady	139	0	15	8	28	0	0	0	0	85	0	3
Schoharie	20	0	0	2	4	0	0	0	0	14	0	0
Schuyler	25	1	1	2	9	0	0	0	3	9	0	0
Seneca	15	0	6	1	0	0	0	0	0	8	0	0
Steuben	103	3	14	17	25	0	0	0	0	44	9	0
Suffolk	1,494	10	421	85	454	0	0	0	0	514	0	10
Sullivan	83	0	17	15	21	0	0	1	0	28	0	1
Tioga	20	6	2	0	4	0	0	0	0	8	0	0
Tompkins	64	0	3	2	16	0	2	0	0	41	0	0
Ulster	99	5	10	3	59	0	0	1	0	20	0	1
Warren	24	1	6	2	6	0	0	0	0	8	0	1
Washington	31	0	0	0	13	0	0	0	0	18	0	0
Wayne	104	1	7	6	27	0	0	0	1	62	0	0
Westchester	1,465	5	303	87	365	3	23	4	3	664	3	8
Wyoming	0	0	0	0	0	0	0	0	0	0	0	0
Yates	0	0	0	0	0	0	0	0	0	0	0	0

Table 86

FAMILY OFFENSE PROCEEDINGS*
New York City Criminal Court

A. September 1, 1978 through December 31, 1978

B. January 1, 1979 through Dec. 30, 1979

A. September 1, 1978 — December 31, 1978

Docket Disposition	Total	A Felony	B Felony	C Felony	D Felony	E Felony	A Misd.	B Misd.	Unclass. Misd.	Viol. Infrac. V/I	Unknown
Not Guilty (Acq. or Dism.)	101		3		3	1	64	5		24	1
Guilty Sentence Imposed	30		1	1	7		16	2		3	
Referred to Supreme Court	1				1						
Total Disposed	132		4	1	11	1	80	7		27	1

B. January 1, 1979 — December 30, 1979

Docket Disposition	Total	A Felony	B Felony	C Felony	D Felony	E Felony	A Misd.	B Misd.	Unclass. Misd.	Viol. Infrac. V/I	Unknown
Not Guilty (Acq. or Dism.)	258		3	5	23	1	154	17	1	47	7
Guilty Sentence Imposed	92		1	7	18	3	48	3		8	4
Referred to Supreme Court	9		1	2	5	1					
Total Disposed	359		5	14	46	5	202	20	1	55	11

*Data are not available for counties outside of New York City.

Chapter 4

Special Programs

4.1 Mental Health Information Service

Section 29.09 of the Mental Hygiene Law establishes in each of the State's four judicial departments a Mental Health Information Service. The director in each department and his assistants and staff are appointed by the Presiding Justice of the appropriate Appellate Division. The statutory functions of the service include reviewing the admission and retention of mentally ill patients in mental health facilities; providing courts with all relevant information concerning the patient's case in judicial proceedings; and providing similar services for the mentally disabled and their families.

Table 87 is a summary of the principal activities of the Mental Health Information Service in 1979 as tabulated from reports furnished to the Office of Court Administration.

4.2 Central Index for Post-Conviction Applications

A Central Index for Post-Conviction Applications was established in the office of the Administrative Board of the Judicial Conference on July 1, 1970. The system was devised after extensive discussion with a committee of both State and Federal judges which was chaired jointly by then Chief Judge Stanley H. Fuld and then Chief Judge Edward J. Lumbard. The main purpose of the Central Index was to permit a judge, whether State or Federal, who receives post-conviction applications to look to one place to determine if the petitioner has made similar application to another court or has another application presently pending.

The system operates relatively simply. When a judge receives a post-conviction application, he completes a card form and mails it to the Office of Court Administration. This form indicates the petitioner's name, his New York State Identification Number (NYSID), the date the application was received, the type of application, the judge's name, the court, and the docket number. OCA then processes the information on its computer, and the computer generates a two-part form which is sent to the judge. The first part of the form indicates any previously reported application made by the petitioner since July 1, 1970. The second part of the form is completed by the judge when the application is disposed of, and it is sent to the Office of Court Administration for inclusion in the Central Index.

In 1979, 994 applications were received by the Central Index, 857 from State courts and 137 from Federal courts. Of the 343 dispositions received, 332 were from State courts and 11 from Federal courts.

An analysis by computer of the applications received indicates that 346 post-conviction applications during the year had been filed previously in another court. This would indicate that those who bring post-conviction applications do not limit themselves to one application or one court. Thus, the main purpose in establishing the Index — to make available to the courts the information that other similar applications have been made or are pending in other courts — is being served.

Table 88 sets forth the type of applications received by both the State and Federal courts which were reported to the Office of Court Administration in 1979.

4.3 Retainer and Closing Statements

Under 22 NYCRR Parts 603.551 and 1.022, every participant in a contingent fee in the First, Second and Fourth Judicial Departments* must file a Statement of Retainer with the Office of Court Administration in cases involving personal injury, property damage, wrongful death, or change of grade. This statement must be filed within 30 days of the date the lawyer is retained (15 days in the case of "of counsel" lawyers). It sets forth the date of the agreement, the terms of compensation, the agreement as to work and fee division between the original lawyer and the "of counsel" lawyer, and data about the person referring the client to the lawyer.

In addition, every such lawyer must file a closing statement with the Office of Court Administration within 15 days of the date the monies become available to him. This statement sets forth such information as the monetary amount of the settlement or award (if any). If an action was commenced, it contains the date, court, and county of commencement and the method of the recovery, the person paying the recovery, the distribution of the recovery to the client, and the lawyer's fees and other disbursements.

The purpose of these statements is to provide information for use by the three Appellate Divisions to prevent the charging of unconscionable fees in contingent fee cases and to discourage the solicitation of cases.

Table 89 shows that 93,285 retainer statements were filed with the Office of Court Administration in the calendar year 1979. This was an increase of 1,334 retainers over the previous calendar year. The figures for the year reflected the first increase in filings since the institution of no-fault insurance.

*At present, there is no filing rule for the Third Judicial Department.

Table 90 gives the court in which actions were terminated and the monetary breakdown by settlement or judgment. For cases on the Supreme Court calendar, the largest single group of cases terminated involved recoveries between $3,000 and $4,000. The largest single group of cases terminated in the lower courts involved recoveries for $1,000 to $2,000. The great majority of claims settled resulted in at least some monetary recovery. Although there were some very large recoveries, they were proportionately few; there were 1,488 recoveries in the $50,000 to $100,000 category and 942 recoveries over $100,000.

4.4 Compulsory Arbitration

The compulsory arbitration statute was enacted by the Legislature in 1970, Judiciary Law Section 213 (8). The statute was subsequently extended three times by the Legislature, and in 1978, enacted permanently (CPLR 3405.)

The Arbitration Program was established on a pilot basis in Monroe County (September 1, 1970), Bronx County (May 17, 1971), Broome County (March 1, 1972), and Schenectady County (June 18, 1973).

Rule 3405 authorizes the Chief Judge to promulgate rules for the arbitration of claims for the recovery of a sum of money not exceeding $6,000, exclusive of interest, pending in any court or courts. The Chief Judge has adopted rules governing arbitration (22 NYCRR 28).

One major basis for evaluating the success of the Arbitration Program is the use made of it. In 1979, 2,336 cases were referred to arbitration panels in Bronx, Broome, Monroe and Schenectady counties, as shown in Table 91. The overall disposition rate was almost 32 percent of all civil cases disposed of (excluding matrimonials) during 1979 in those counties in the Arbitration Program. While this represents only 13 percent and 26 percent in Schenectady and Bronx counties respectively, it is noteworthy that in Broome and Monroe counties the dispositions represent 45 percent in the former and 57 percent in the latter.

A second basis for assessing the arbitration program concerns the acceptance of dispositions by the litigants. Of the 2,336 arbitrated cases, 30 percent were disposed by settlement, 69 percent by trial award and 1 percent by other means. Tables 91 and 92 show that demands for trial de novo in arbitrated matters were 3.8 percent of cases arbitrated in Bronx County, 8.4 percent of cases arbitrated in Broome County, 8.0 percent of cases arbitrated in Monroe County, and 6.3 percent of cases arbitrated in Schenectady County. Thus in 94.0 percent of the cases arbitrated, the arbitrator's award finally determined the matter and relieved the court of the burden of dealing with these cases. That is a high percentage, considering that only 35.6 percent of the awards were as demanded by the plaintiffs, as shown in Table 93 for all arbitration programs.

A favorable by-product of the arbitration system is the increase in cases transferred down to city courts pursuant to CPLR Section 325 (d). In the 1979 calendar year 147 cases were transferred to the Rochester City Court and 77 to the Binghamton City Court. It appears that when the superior courts recognize there is a readily available method of speedily disposing of cases in the city courts, they will transfer cases in which they believe the award will be $6,000 or less. The Bar appears satisfied to have such transfers made. Of those cases which were calendared in the Rochester City Court (those not settled before filing in City Court), 92 percent appeared on an arbitration calendar rather than on a trial calendar.

Another favorable aspect of the arbitration program is its use in situations in which the damage claims exceed $6,000. Although arbitration is not compulsory in these cases, there were 19 such cases stipulated to arbitration in Monroe County in 1979. (Similar figures were not tabulated for the other counties).

An additional desirable aspect of the arbitration program is that 91.7 percent of the cases disposed of by arbitration took two and one half hours or less to try while only 1.6 percent required more than five hours for disposition. It is apparent that the savings in time for attorneys and litigants is substantial, especially when compared to the length of trials conducted by traditional methods, particularly jury trials, in which at least a full day would be required.

Finally, the large number of lawyers who have volunteered to serve as arbitrators is evidence of the enthusiasm with which lawyers have received the Arbitration Program. 95 percent of the active practicing Bar in Rochester is involved in the program.

4.5 Statements of Appointments and Statements of Fees or Commissions

Section 35-a of the Judiciary Law, as originally enacted by the Legislature in 1967, required the filing of a Statement of Appointment by each person appointed by the courts to perform services in actions and proceedings for a fee or an allowance. The statute called for these statements to be filed with the Judicial Conference within 30 days of an appointment. The required information included the name and the address of the appointee; the nature of the appointment; the title of litigation; and the name of the court and the judge or justice making the appointment.

In addition, within 30 days of receiving a fee, the appointee was required to execute a Statement of Services Rendered with other pertinent data related to the fee received. Under the statute, all statements filed were to be kept as matters of public record. The law also required that an annual summary of the information in the statements be furnished to the four Appellate Divisions of the Supreme Court for use in supervising court appointments in their Judicial Departments.

A total of 121,687 statements of appointment have been filed since July 1, 1967, under this system, only 23 in 1979. An extensive study of this system of two reports for each appointment revealed a number of inefficiencies. Not the least of these was the failure of many appointees to file a Statement of Services Rendered after payment of the fee. To deal with this problem, the Office of Court Administration sponsored legislation amending section 35-a which was

enacted as Chapter 834, Laws of 1975, and which went into effect starting with appointments made after September 1, 1975.

Under the amended law, judges who approve fees are responsible for filing a single comprehensive statement, entitled Statement of Fees or Commissions, on appointments for which the fee is more than $200. The judges are required to send the statements to the Office of Court Administration each week for data processing and filing. Fees of $200 or less are not required to be reported because they are believed to have little significance in the statistical study of appointments made in the court system.

In 1979 a total of 3,302 Statements of Fees or Commissions were filed with the Office of Court Administration. Such statements accounted for about 90 percent of the statistical data furnished in annual reports to the Appellate Divisions. The new system accomplished its intended purpose of getting more timely reports on court appointments without loss of required data provided by the older system.

4.6 Attorney Grievance Committees

Section 90 of the Judiciary Law places with the four Appellate Divisions the authority to "censure, suspend . . . or remove from office" any lawyer who is found guilty of a crime, misconduct, or malpractice, or any conduct prejudicial to the administration of justice. To accomplish this purpose, the Appellate Divisions have appointed attorney discipline committees in their respective departments.

Staff for the committee in the First Department is funded through a contractual agreement with the Association of the Bar of the City of New York. This relationship is expected to terminate April 1, 1980. Grievance staff for the other departments are employees of the Appellate Divisions.

In 1979, the Grievance Committees received 6,014 new matters and disposed of 6,918 matters, as shown in Table 94. The committees also initiated 259 court cases.

Table 87

Mental Health Information Service Activity by Judicial Department

Jan. 1, 1979 through Dec. 30, 1979

Judicial Department	Nonjudicial Proceedings		Applications for Release or Rentenion			Other Activity		
	Applications Reviewed	Contacts with Patients & Other	Patients Released	Patients Retained	Hearings Demanded	Judicial Cases	Reports to Courts	Hearings Attended
First	20,410	23,369	405	272	622	975	1,363	1,604
Second	56,968	97,706	370	5,790	2,420	8,282	7,623	6,228
Third	7,065	7,186	73	972	448	1,302	1,146	265
Fourth	21,300	12,845	282	2,547	912	3,509	2,800	1,699
Statewide Total	105,743	141,106	1,130	9,581	4,402	14,068	12,932	9,846

Table 88

Central Index of Post-Conviction Applications

Jan. 1, 1979 through Dec. 30, 1979

Type of Application	N.Y. Courts	Federal Courts	Total	Percent
Habeus Corpus	269	101	370	37.2
Coram Nobis	10	0	10	1.0
Article 78	551	1	552	55.6
Civil Rights	1	35	36	3.6
Motion for Resentence	10	0	10	1.0
Motion for Leave to Appeal	2	0	2	0.2
Certificate of Relief from Disability	6	0	6	0.6
Reargruments—Motion for Resentence	5	0	5	0.5
Reargruments—Certificate of Relief from Disability	3	0	3	0.3
Total	857	137	994	100.0

Table 89

Retainer Statement Filings by Month

Jan. 1, 1979 through Dec. 30, 1979

Month	Number of Statements of Retainer Filed
January	7,941
February	6,873
March	8,008
April	7,317
May	8,107
June	8,378
July	6,387
August	9,904
September	7,077
October	7,666
November	7,405
December	8,222
Total	93,285

Table 90

Court and Monetary Breakdown of Closing Statements

Jan. 1, 1979 through Dec. 30, 1979

Amount of Recovery	Supreme Court		U.S. District Court		Court of Claims +		County Court		Civil Court		City Court		District Court		Justice Court		All Courts		No Action*
	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judgement	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled
$1–199	205	10	21	...	...	1	8	1	566	10	36	1	48	...	6	...	890	23	390
500–999	523	8	70	2	3	...	29	...	1,306	16	72	5	106	1	5	...	2,114	32	853
1,000–1,999	1883	27	122	4	2	1	41	1	2,880	35	112	8	134	7	6	1	5,180	84	1,584
2,000–2,999	2,583	19	101	1	5	1	26	...	2,221	28	84	3	79	1	...	...	5,099	53	1,675
3,000–3,999	3,101	21	84	3	3	...	28	1	1,243	21	34	1	34	...	...	...	4,527	47	1,589
4,000–4,999	2,662	19	58	3	2	...	12	...	546	6	9	...	21	...	...	...	3,310	28	1,122
5,000–5,999	2,612	29	54	2	1	...	9	...	308	17	8	...	11	1	...	...	3,033	49	826
6,000–6,999	2,236	15	38	1	1	...	2	...	140	2	2	...	3	1	...	...	2,422	19	583
7,000–7,999	2,632	17	50	2	5	...	3	1	113	4	3	...	4	...	...	...	2,810	24	636
8,000–8,999	1,501	12	28	1	1	...	1	...	49	5	...	...	...	...	...	...	1,580	18	389
9,000–9,999	1,819	14	33	1	1	1	...	...	43	2	...	...	...	...	...	...	1,896	18	579
10,000–14,999	4,385	70	126	2	3	1	...	...	46	10	...	...	...	...	...	...	4,560	83	1,131
15,000–19,999	2,269	53	90	4	...	...	...	...	21	2	...	...	...	...	...	...	2,380	59	335
20,000–24,999	1,411	45	56	4	1	...	...	...	8	1	...	...	...	...	...	...	1,476	50	161
25,000–29,999	986	23	45	1	...	...	...	...	4	...	...	...	...	...	...	...	1,035	24	104
30,000–34,999	563	19	27	1	1	1	...	...	2	2	...	...	...	...	...	...	593	23	47
35,000–49,999	1,144	35	68	4	...	1	...	...	5	...	...	...	...	...	...	...	1,217	40	95
50,000–99,999	1,286	76	109	7	2	2	...	...	4	2	...	...	...	...	...	...	1,401	87	105
100,000–UP	725	91	107	12	2	2	...	...	2	1	...	...	...	...	...	...	836	106	41
Total With Recovery	34,556	603	1,287	55	33	11	159	4	9,507	164	360	18	440	11	17	1	46,359	867	12,245
No Recovery	958		78		7		9		536		41		25		0		1,654		4,118

Note: Whenever individual closing statements were filed by attorneys acting jointly in a case, each statement received was included in these tabulations. Thus, the number of statements somewhat exceeds the total number of cases closed.

+ Includes condemnation as well as tort matters.

* Item 3 of the closing statement requires that the court and date be indicated if an action was commenced. This category includes those statements in which this item is left blank.

Table 91

Disposition of Compulsory Arbitration Cases by County

Jan. 1, 1979 through Dec. 30, 1979

County	Settlements	Trial Awards	Other	Total
Bronx	265	784	15	1,064
Broome	51	92	0	143
Monroe	293	664	14	971
Schenectady	82	76	0	158
Total	691	1,616	29	2,336

Table 92

Demands for Trial De Novo in Arbitrated Cases by Month

Jan. 1, 1979 through Dec. 30, 1979

Month	Bronx County	Broome County	Monroe County	Schenectady County	Total
January	4	1	7	0	12
February	2	0	3	3	8
March	7	0	11	2	20
April	1	0	6	0	7
May	6	1	3	1	11
June	3	4	13	2	22
July	6	1	8	0	15
August	3	4	7	0	14
September	2	1	3	0	6
October	2	0	8	2	12
November	2	0	4	0	6
December	2	0	5	0	7
Total	40	12	78	10	140

Table 93

All Arbitration Services Plaintiff Demand and Award

Jan. 1, 1979 through Dec. 30, 1979

Award	Demand												Total
	Up to $100	$101-$200	$201-$300	$301-$400	$401-$500	$501-$1,000	$1,001-$2,000	$2,001-$3,000	$3,001-$7,000	$7,001-$10,000	$10,000 and up	Not Reported	
None	7	16	13	28	18	105	126	63	49	0	10	0	435
Up to $100	7	10	6	6	5	13	6	3	1	0	0	0	57
$101 - $200	1	26	15	7	6	19	16	3	1	2	1	0	97
$201 - $300	0	0	27	6	10	31	14	4	4	0	0	0	96
$301 - $400	0	0	0	33	9	45	15	2	7	0	0	0	111
$401 - $500	0	0	0	0	29	38	34	2	7	1	1	0	112
$501 - $1,000	0	0	0	0	1	177	113	33	20	0	2	0	346
$1,001 - $2,000	1	0	0	0	0	1	179	66	40	1	0	0	288
$2,001 - $3,000	0	0	0	0	0	0	1	70	24	2	4	0	101
$3,001 - $7,000	0	0	0	0	0	0	0	0	56	1	2	0	59
$7,001 - $10,000	0	0	0	0	0	0	0	0	0	0	0	0	0
$10,000 and up	0	0	0	0	0	0	0	0	0	0	2	0	2
Not reported	0	0	0	0	0	0	0	0	0	0	0	0	0
Totals	16	52	61	80	78	429	504	246	209	7	22	0	1,704

Table 94

Attorney Grievance Committees Activity

Jan. 1, 1979 through Dec. 30, 1979

Items	Statewide	1st Dept.	3rd Dept.	4th Dept.	2nd & 11th Dists.	9th Dist.	10th Dist.
Matters Processed by Committee							
New Matters Received	6,014	2,432	779	848	569	459	927
Closed Matters Reactivated	114	0	22	76	6	10	0
Total	6,128	2,432	801	924	575	469	927
Disposition of Matters by Committee							
Dismissed/Rejected	5,297	2,588	508	907	234	361	679
Referred to Other Committee/Agency	886	282	224	0	170	87	123
Caution	230	80	54	11	16	27	42
Admonition	207	104	19	9	29	35	11
Referred to Appellate Division	298	88	52	5	79	48	26
Court Cases							
Cases Initiated	259	72	25	26	98	22	16
Court Cases Disposed							
Disbarred	64	12	1	1	41	4	5
Resigned	19	9	1	1	7	1	0
Suspended	40	14	6	8	6	5	1
Censured	30	4	3	1	10	6	6
Dismissed	8	1	0	5	1	1	0
Reinstatement Granted	19	9	5	3	2	0	0
Reinstatement Denied	7	3	1	1	2	0	0
Other	46	15	10	3	15	1	2

Chapter 5

Education and Training Programs

Since 1962, over 20,300 judges and justices of New York State have attended seminars and training programs conducted by the Office of Court Administration (OCA) through its Education and Training Office. In 1979, 1,348 judges, including 606 town and village justices, attended 24 OCA-sponsored judicial programs. In addition, approximately 26 judges attended national programs outside the State. In the area of non-judicial training, more than 600 persons attended programs sponsored or financed by OCA.

The Education and Training Office also administers the tuition-reimbursement program for State-paid court personnel and provides assistance or advice and counsel to judicial and non-judicial groups in the State.

This chapter consists of six sections: (1) judicial programs for State-paid judges; (2) town and village justice programs; (3) non-judicial programs; (4) other programs; (5) other activities; and (6) summaries of discussions at the Crotonville Conference.

5.1 Judicial Programs for State-Paid Judges

Sentencing Institutes
March 2 and 3, 1979

A Sentencing Institute was held on March 2 and 3, 1979 in Syracuse, New York for 55 County Judges and Supreme Court Justices. Lectures, panels and workshops at the institute focused on disparity in sentencing and emerging problems in the law of sentencing. At the Sentencing Institute, the attending judges divided into four groups to discuss various pre-sentence reports, thus providing the opportunity for an exchange of individual ideas and criteria in sentencing. In addition, the judges were presented with a lecture on recent developments in the law of sentencing and a panel discussion on proposals to reduce disparity of sentencing.

Criminal Court Judges Seminar
March 9-11, 1979

The first program for New York City Criminal Court Judges in many years was presented by the Education and Training Office on March 9 through 11, 1979 at Grossinger's Country Club. In addition to lectures on judicial conduct, family offenses and orders of protection, and juvenile offenders, panel discussions were held on suppression motions, arraignment, bail and plea negotiations, the scope of discovery in preliminary hearings and control of the courtroom. Approximately 80 judges attended.

Winter Program for Supreme Court Judges
March 22-24, 1979

The first winter program for Supreme Court Justices was held at the Seaman's Institute in New York City on March 22-24, 1979. The 43 justices who attended broke into five small groups after each of four lectures on evidence, jury instructions, comparative negligence and joint tortfeasors, and products liability. Alimony in New York after *Orr v. Orr* and mental issues in criminal trials were the subjects of two additional lectures.

Seminar For City Court Judges
March 30-31, 1979

The Education and Training Office's Annual Program for City Court Judges was attended by 74 Judges on March 30-31, 1979 at Syracuse, New York. Lectures were presented on recent developments in the law of evidence, judicial conduct, juvenile offenders, youthful offenders, violent felony offenders, and armed felony offenders, negotiated pleas, procedural requirements, "Alford" pleas and alternative dispositions, family offenses, recent developments in civil practice, criminal jury instructions, examination of witnesses, impeachment, and motor vehicle matters.

Seminar For County Court Judges
May 9-11, 1979

Approximately 73 Judges of the County Court attended a program sponsored by the Education and Training Office at the Gideon Putnam Hotel in Saratoga Springs, New York on May 9-11, 1979. Topics covered in lectures and panel discussions included recent developments in criminal law, judicial conduct, the State retirement system, criminal jury instructions, psychology and the judiciary, felony pleas and sentences, juvenile offender proceedings, and suppression motions.

Seminar for Surrogates
May 21-24, 1979

The 13th Annual Seminar for Surrogates was held in Saratoga Springs on May 21-24, 1979 and was attended by 46 Surrogates. In addition to the review of more than fifty recent decisions, speakers and panelists covered topics including the consent of an unwed father to an adoption, mobile testators, judicial conduct, proposed and pending legislation, and a practitioner's view of practice in the Surrogate's Court.

Conference of New York State Trial Judges
June 25-28, 1979

Approximately 135 judges and justices attended this annual seminar held in Crotonville, New York from June 25-28, 1979. The program was divided into five seminar periods. The first four periods consisted of the judges, after dividing into four groups, attending, on a rotating basis, discussions on recent developments in civil procedure, evidence, criminal law and procedure, and the role of the trial judge. The fifth period consisted of a lecture on recent developments in matrimonial law and summaries of the panel discussions.

Family Court Workshop
September 9-11, 1979

The Eleventh Annual Workshop for Family Court Judges was held at Saratoga Springs, New York on September 9-11, 1979. Ninety-one judges attended. The program consisted of three workshops which were presented three times to enable every judge to participate in each one. The workshop topics were: mental health services and the Family Court, legislation and case law, and the judge's role in the courtroom. In addition to the workshop, a lecture on communication in the Family Court was presented.

Civil Court Judges' Seminar
November 16-18, 1979

The Annual Civil Court Judges' Seminar was held on November 16-18, 1979 at Grossinger's Country Club. Approximately 95 judges attended. The program consisted of three workshops on recent developments in civil procedure, evidence, and pattern jury instructions. Each of the workshops was repeated to enable every judge to attend all of the discussions. In addition to the workshops, lectures on the Housing Court, judicial conduct and products liability were presented.

Orientation Seminar For Newly-Elected and Newly-Appointed Judges
December 3-7, 1979

The Annual Orientation Program for Newly-Elected and Newly-Appointed Judges was held on December 3-7, 1979 in New York City. The week-long program consisted of lectures on evidence, the trial judge's role, the division of substance abuse services, the New York State Employees Retirement System, criminal procedure, the Bench Book For Trial Judges, civil law and procedure, the administration of jurors, the role of the court reporter, inter-court relations and administrative structure, substantive criminal law, pattern jury instructions, judicial conduct, and additional miscellaneous topics. Approximately 50 judges attended the program.

The Office of Court Administration thanks the following people who addressed, lectured, or otherwise participated in the educational programs for State-paid judges:

Honorable Morris Aarons
Honorable Mario Albanese
Professor Joseph T. Arenson
Honorable Sidney H. Asch
Honorable Raymond C. Baratta
Professor Robert A. Barker
Dean Richard J. Bartlett
Honorable Jerome Becker
Honorable Joseph W. Bellacosa
Professor Sheila Birnbaum
Honorable Bernard M. Bloom
Mr. Frederick A. Bobenhausen
Honorable David O. Boehm
Honorable Richard J. Bookhout
Honorable Charles D. Breitel
Honorable Evans V. Brewster
Honorable Richard A. Brown
Frank S. Cammarata, C.S.W., M.P.A.
Honorable Willard W. Cass, Jr.
Honorable Lawrence H. Cooke
Honorable Donald J. Corbett, Jr.
Mr. Albert Court
David L. Diamond, Esq.
Maureen Donovan, Esq.
William C. Donnino, Esq.
Honorable Michael W. Duskas
Honorable Shanley N. Egeth
John J. Elliott, Esq.
Honorable Herbert B. Evans
Honorable Richard H. Farley
C. Sims Farr, Esq.
Dean Robert B. Fleming
Mr. John Fremont
Honorable Betty D. Friedlander
Mr. Thomas Geles
Mr. Robert E. Golden
Honorable Harry D. Goldman
Honorable Archie A. Gorfinkel
Honorable Walter T. Gorman
Peter Guggenheim, M.D.
Honorable Edward R. Hammock
Honorable Stewart F. Hancock, Jr.
Honorable Charles J. Hannigan
Reid Hastie, Ph.D.
Honorable Julius A. Hellenbrand
Honorable Pierson R. Hildreth
Honorable Edward M. Horey
Honorable Abraham Isseks
Michael G. Kalogerakis, M.D.
Honorable Theodore S. Kasler
Honorable Edwin Kassoff
Honorable Irving Kirschenbaum
Professor David R. Kochery
Professor Joseph H. Koffler
Professor Jack Kress
Honorable Theodore R. Kupferman
Ms. Rosalie Labate
Honorable Marie M. Lambert
Honorable Irving Lang
Honorable Louis D. Laurino
Honorable Leon D. Lazer
Honorable David Levy
Honorable Leo Levy
Honorable Howard A. Levine

Honorable Shirley R. Levittan
Dorothy Otnow Lewis, M.D.
Honorable John S. Lockman
Honorable Charles T. Maloy
Honorable Arthur Markewich
Honorable Reginald S. Matthews
Honorable Harold Mayer
Honorable Peter J. McQuillan
Honorable M. Holt Meyer
Honorable E. Leo Milonas
Honorable Saul Moskoff
Honorable John R. Murray
Honorable Benjamin F. Nolan
Professor Peter J. O'Connor
John F. O'Mara, Esq.
Honorable John L. Ostrander
Robert P. Patterson, Jr., Esq.
Dean Emeritus Jerome Prince
Professor Paul J. Powers
Honorable Bernard L. Regan
Honorable William J. Regan
Honorable George F. Roberts
Honorable Albert Rosenblatt
Honorable David Ross
Honorable Harold J. Rothwax
Honorable William R. Roy
Robert L. Sadoff, M.D.
Honorable Gerald Saperstein
Honorable Felice K. Shea
Professor Thomas F. Shea
Professor David D. Siegel
Honorable Robert J. Sise
Honorable Morrie Slifkin
Honorable Francis X. Smith
Honorable Lyman H. Smith
Honorable Stephen Smyk
Honorable Nathan R. Sobel
Honorable Brenda Waldman Soloff
Honorable Thomas M. Stark
Honorable Martin B. Stecher
Gerald Stern, Esq
Honorable Donald J. Sullivan
Honorable Eugene F. Sullivan, Jr.
Honorable Lawrence J. Tonetti
Honorable Edwin Torres
Eric Warner, Esq.
Mr. Lewis R. Webster
Harvey Weitz, Esq.
Honorable Milton L. Williams
Gordon I. Zimmerman, Ph.D.

5.2 Town and Village Justice Training Programs

There are approximately 2,500 town and village justice positions in New York State. Because of vacancies and because some judges hold more than one position, approximately 2,200 individuals hold the office of town or village justice. Roughly eighty percent of these are not admitted to practice law in the State. New justices who are not attorneys are required to successfully complete a six-day Basic Certification Course covering the fundamentals of law and their responsibilities as judges. The Basic Course was presented once in Canton and twice each in Albany, Syracuse, and Buffalo in 1979. A total of 244 new justices attended. After completion of the Basic Course, and upon each succeeding new term of office, a non-attorney justice must complete a two-day Advanced Certification Course which covers selected legal topics in greater depth. The six Advanced Courses presented in 1979 were held in New York City, Albany, Olean, Canton, Loch Sheldrake, and Binghamton. A total of 362 justices attended.

The Office of Court Administration is particularly indebted to Honorable Eugene W. Salisbury, Honorable Duncan S. MacAffer, and John J. Elliott, Esq., who served as the senior faculty for the program, coordinated the Basic Certification Courses, and provided invaluable consultation for the program planning and delivery.

In addition, the Office of Court Administration thanks the following people for their participation in the Justice Training Program:

Michael J. Brown, Esq.
Honorable William J. Bulger
Honorable Helen Burnham
Paul J. Cambria, Esq.
Mr. Thomas J. Castner
Stephen R. Coffey, Esq.
Malcolm Coutant, Esq.
Honorable John DeMiceli
Professor Maurice Frey
Mr. William Green
Honorable Herman Harding
Frank S. Kedjielawa, Esq.
Honorable Norman E. Kuehnel
Salvatore Martoche, Esq.
David F. Mix, Esq.
Frank Moore, Esq.
Honorable Kevin Moss
Mr. David S. Rockefeller
Larry J. Rosen, Esq.
Professor Louise Tucker
Honorable Richard Wittenburg

5.3 Non-Judicial Programs

The Education and Training Office of the Office of Court Administration sponsored sixteen training sessions for court

support staff in 1979, which were attended by more than 600 court employees.

Commissioners of Jurors Seminar
April 22-25, 1979

The Commissioners of Jurors met in conjunction with the New York State Association of Counties at Liberty, New York. Their topics included a discourse on the meaning of "management and confidential" status, a full group discussion on creating a publicity/informational document for the public about the role of Commissioners of Jurors and jury service in general, a workshop on the mechanics and work flow involved in the possible creation of an administrative manual for the Commissioners, and a report session on staffing and salary.

Surrogates' Law Association
May 22-24, 1979

The Office of Court Administration sponsored, for the first time, a seminar of the Surrogates' Law Association in 1979 at West Point, New York. The conference emphasized group discussions of more than forty matters of law and procedure affecting the operation of the larger Surrogate's Courts of the State. Guest speakers gave presentations on generation-skipping transfers and on estate taxes.

Family Court Clerks Seminar
June 5-8, 1979

The conference, held at Swan Lake, New York, was cosponsored by the New York State Association of Clerks of the Family Court and the Office of Court Administration of the State of New York. Topics covered in presentations, panel discussions, and workshops included child abuse, the Interstate Custody Act, time management, and non-secure detention. In addition, the film "Scared Straight" was viewed and discussed, and a question-and-answer session on practical daily problems of the Family Court clerk was conducted.

City and District Court Clerks Seminar
June 11-13, 1979

The second annual seminar of the City and District Court Clerks of the State was sponsored by the Office of Court Administration at Alexandria Bay, New York. Most of the seminar was devoted to the commencement of a procedures manual project for City and District Court Clerks. Other activities included presentations or workshops on record-keeping requirements, legally mandated duties of clerks, statistical reporting, and time management.

Annual Conference of Supreme and County Court Clerks
July 23-26, 1979

This conference, held at Kiamesha Lake, New York, was cosponsored by the New York State Association of Clerks of the Supreme and County Courts and the Office of Court Administration. Informational reports were given on the progress of the procedural manual project, recent legislation affecting the clerks, personnel reclassification, the Statewide staffing study, and flowcharting. Workshops on time management and courtroom security were also conducted.

Chief Clerks of Surrogate's Court
September 12-14, 1979

This entire conference, which was held at Alexandria Bay, New York, was devoted to the revision and improvement of the draft administrative manual for Chief Clerks of Surrogate's Court. Committees were formed and each committee worked on one chapter and then brought its work back to the entire body for discussion. Chapters of the administrative manual cover public services, administration, Article 13, probate, guardianship, accounting, and glossary and definitions. The new draft was reproduced and sent to all Surrogate's Courts and other interested parties for their comments.

Supreme Court Reporters Seminar and Orientation

December 19, 26 and 27, 1979

This new program, held in New York City, was designed both to welcome a large number of newly appointed reporters and to assist existing reporters in the Supreme Court.

A specialist on stress management gave a workshop to the entire group on December 19th. This was followed by a lecture on the standards of professionalism expected of reporters in the Supreme Court and a question-and-answer session with representatives of the Office of Court Administration about wages, pensions, sick leave, annual leave, medical benefits and classification.

December 26th and 27th dealt with the important things a newly hired reporter needs to know. Included were presentations on the structure of the Office of Court Administration, billing and voucher procedures, and a description of the flow of a typical case through a criminal proceeding and a civil proceeding in the Supreme Court. Printed reference material dealing with specialized vocabularies, such as medical ter-

minology, were distributed and a presentation was made on the reference works available to reporters in Supreme Court libraries.

Town and Village Court Clerks Statewide Program

Two hundred and ninety Town and Village Court Clerks or Justices acting as their own clerks attended one of seven identical seminars offered throughout the State. Seminar locations were Fredonia, Watertown, Henrietta, Johnstown, Dryden, Loch Sheldrake, and New York City.

Topics presented were: adjournments in contemplation of dismissal; seal and return orders; youthful offenders; juvenile offenders; family offense proceedings; criminal disposition reporting; audit and control matters; and appeals. These topics were selected as a result of a needs survey taken among Town and Village Court Clerks in 1978. Continuous monitoring through immediate evaluation feedback after each session assured that the following sessions were meeting the clerks' real needs.

Management Skills Program — New York City

A dozen middle-level managers in the Unified Court System completed a rigorous course designed to improve their effectiveness and productivity. All-day workshops, requiring several hours of at-home preparation and major on-the-job action plan follow-up were conducted. Topics were: Managing Your Time Effectively; Styles of Management; Running Effective Meetings and Conferences; Setting Goals and Standards; The Management Cycle — Planning, Organizing, Activating and Controlling Work; and A Problem-Solving Matrix for Managers. The latter topic required four conference days. The superiors of the middle managers were required to meet with the course members regularly to discuss progress, projects, and joint action plans that would improve productivity.

5.4 Other Programs

The Education and Training Office sponsors and coordinates selective attendance of judicial and non-judicial personnel at nationally recognized educational programs.

5.4.1 Judicial Programs

National Judicial College

Fourteen judges attended programs varying in length from one to four weeks at the National Judicial College facilities at the University of Nevada in Reno. Seven judges attended the College's core four-week program; the other seven attended shorter specialized courses dealing with new trends in the law, evidence, criminal law, or court administration.

National Council of Juvenile Court Judges

Five Family Court Judges attended the Annual Conference of the National Council of Juvenile Court Judges. Areas of discussion included child abuse and neglect, delinquency, violent and dangerous offenders, and learning disabilities.

American Bar Association's Conference for State Trial Judges and Conference for Special Court Judges

Seven judges attended one of these six-day conferences. Topics included recent impact decisions, search and seizure, alcohol and drugs, state-federal relations, communications, state-judicial planning, administrative law, anatomy of a decision, and media and the law.

Institute for Trial Judges

The Education and Training Office provides administrative services and funding for two series of lectures established by the Institute for Trial Judges at Hunter College. The lectures are intended to provide an interdisciplinary forum stressing issues of the social sciences as they impact upon the trial judge. Topics in the Spring series covered search and seizure and the exclusionary rule; juror function and usage research; confessions and the exclusionary rule; and psychiatry and law. The Autumn semester dealt with anti-trust actions in state courts; the insanity defense; computers and law; and life sciences and law.

The New York School for Psychiatry

The Office of Court Administration assisted in obtaining nominees and funding to attend two series of seminars conducted by the New York School for Psychiatry, one in Albany and one in New York City. A small group of judges met one night a week for 13 weeks and discussed with a law professor and a psychiatrist such topics as the nature of mental illness; fitness to stand trial; the insanity defense; disposition of the insanity acquittal; involuntary civil commitment standards; commitment procedures; the right to treatment and the right to resist treatment; and the function of psychiatrists.

5.4.2 Non-judicial Programs

The Education and Training Office administered the tuition reimbursement program for State-paid court employees

again in 1979. One hundred and four applications for job-related courses and degree programs were processed. In addition, the Office of Court Administration sponsored the attendance of court personnel at specialized programs addressing such topics as equal employment opportunity, judicial education, labor relations, word processing management, and personnel records computerization.

5.5 Other Activities

The Education and Training Office assists the work of several committees which prepare and update publications used by the judiciary. The Committee on Pattern Jury Instructions -- Civil is charged with the responsibility of keeping the Civil Pattern Jury Instructions volumes up to date. The Honorable Bernard S. Meyer, who ably headed the Committee since its inception in 1966, relinquished the chairmanship to the Honorable Leon D. Lazer in 1979, upon Judge Meyer's appointment to the Court of Appeals. The Office of Court Administration would like to express the deep appreciation felt by the entire Unified Court System for Judge Meyer's contributions to the Committee over the years.

The Committee on Criminal Jury Instructions, chaired by the Honorable Lyman H. Smith, published two volumes in 1979 containing pattern jury charges for all degrees of all substantive crimes defined in New York's Penal Law. The publication followed four years of research and drafting. The Committee is currently revising drafts of the next planned volume, which will include charges of general applicability to all crimes and will contain preliminary jury instructions and appropriate guidelines to aid judges in classifying multicourt indictments and in charging juries on lesser included offenses.

The first two volumes of Criminal Jury Instructions have been enthusiastically received by the judiciary and the Bar, and the Committee is to be congratulated for its outstanding work.

The Committee on the Preparation of a Handbook on Appellate Advocacy, co-chaired by the Honorable G. Robert Witmer and Denis McInerney, Esq., published in 1979 a Handbook for Appeals to the Appellate Division, which has received wide distribution and praise throughout the State. The Committee's next project is to prepare a Handbook for Appeals to the Court of Appeals.

The Bench Book Committee, chaired by the Honorable Edwin Kassoff, has prepared a two-year supplement to the Bench Book for Trial Judges, a reference work containing practical guidance on trial and courtroom procedure.

5.6 Summaries of Discussions at the Crotonville Conference

CIVIL PRACTICE LAW AND RULES

Professor Peter J. O'Connor
Fordham Law School
Reporter

The CPLR panel was chaired by Justice David O. Boehm of the Supreme Court of the State of New York, Rochester. The other judicial member was Justice Martin B. Stecher of the Supreme Court, New York City. My fellow academic colleague was Professor David D. Siegel of Albany Law School.

The CPLR agenda demonstrated that the past year was a busy one. The panel treated a wide variety of subjects from the constitution to the deposition.

The first topic for discussion was the effect of Section 15-108 of the General Obligations Law upon the right of indemnification. Seven years ago, in *Dole v. Dow Chemical Company* [30 N.Y.2d 143, 331 N.Y.S.2d 382 (1972)], the Court of Appeals held that a defendant tortfeasor had a right to seek contribution from any other tortfeasor alleged to have participated in the tort. For example, if P sued A for personal injuries caused by A's negligent acts, A could seek contribution from B by impleading B under CPLR 1007 on the theory that B was wholly or partially liable for P's damages. Let us assume that the jury found that P was free from negligence, that P's damages were $100,000 and that A's proportionate share of damages was 60% and B's was 40%. P would be entitled to collect the entire judgment from A [*Kelly v. Long Island Lighting*, 31 N.Y.2d 25, 334 N.Y.S.2d 851 (1972)]. Under *Dole*, upon complete satisfaction of the judgment by A, he would be entitled to contribution from B in the amount of $40,000, equalling B's 40% proportionate share of P's damages. The *Dole* doctrine was later codified in Article 14 of the CPLR (Chapter 742 of the Laws of 1974).

In the wake of *Dole*, settlement of tort cases became problematic for the bench and bar. For example, suppose P claimed that A and B were both liable to him as joint tortfeasors, that P sued both A and B, and that A then settled with P. It was held that B could implead A back into the action for a *Dole* apportionment [See *Blass v. Hennessey*, 44 A.D.2d 405, 355 N.Y.S.2d 506 (4th Dept. 1974)]. To encourage settlements, the legislature amended Section 15-108 of the General Obligations Law in 1974 (Chapter 742 of the Laws of 1974; *Mielcarek v. Knights*, 50 A.D.2d 122, 375 N.Y.S.2d 922 (4th Dept. 1975)]. The statute provides that, where a plaintiff settles his claim against one of two or more joint tortfeasors, a verdict in his favor against the remaining torfeasors is to be reduced by the greater of either the amount of the settlement or the amount found by the jury

as the settling tortfeasor's proportionate share of the plaintiff's damages [CPLR 4533-b provides that the amount of the settlement be established before the court in the jury's absence and that the court reduce a verdict in plaintiff's favor by the greater of either the amount of settlement found by the court or the settling tortfeasor's proportionate share of plaintiff's damages as found by the jury]. Let us suppose that P settled with A for $20,000, that the jury found that P was free from negligence and suffered $100,000 in damages, and that A and B's proportionate share of the damages are 40 and 60% respectively. The court would reduce the verdict by $40,000 which is the greater of the two relevant amounts (settlement amount and A's proportionate share of P's damages) and direct entry of judgment in P's favor against B in the amount of $60,000. By the terms of the statute, although P's damages were $100,000 and A's proportionate share constituted 40% of that amount, P's settlement released A from further liability. On the other hand, suppose that P and A again settled for $20,000, that P's damages were again found to be $100,000, but that the proportionate shares of A and B were found to be 10 and 90% respectively. In that situation the court would reduce P's damages of $100,000 by $20,000 (the settlement amount which is greater than A's 10% proportionate share), and direct entry of judgment in P's favor against B in the amount of $90,000. In this case, by the terms of the statute, although A paid P $20,000 which is in excess of his later determined proportionate share of $10,000, A could not legally look to B for contribution as to that excess. In short, under the statute, when a joint tortfeasor settles his claim he is not only discharged from further liability to the plaintiff and from contribution to other joint tortfeasors, but he also loses his right of contribution from the other joint tortfeasors as well.

Two 1978 Appellate Division cases, *Felice v. St. Agnes Hospital* [65 A.D.2d 388, 411 N.Y.S.2d 901 (2d Dept. 1978)] and *Heinsohn v. Putnam Community Hospital* [65 A.D.2d 767, 409 N.Y.S.2d 785 (2d Dept. 1978)] held that Section 15-108 of the General Obligations Law was not applicable to indemnification situations. Your reporter (Professor O'Connor) called the Panel's attention to the Court of Appeals decision in *Riviello v. Raybele Tavern, Inc.* [47 N.Y.2d 297, _____ N.Y.S.2d _____ (1979)], which had been reported in the New York Law Journal a short time before the commencement of the Crotonville Conference [N.Y. Law Journal, June 25, 1979, at 1, col. 6, and at 3, cols. 1-4]. The Court of Appeals, in *Riviello*, held that Section 15-108 had no application to indemnification cases. Justice Stecher summarized the three cases.

In *Felice*, plaintiff's intestate wife died from an undiagnosed infection the day after she had given birth to a child. Plaintiff sued the doctors, involved in the delivery, and the hospital for wrongful death and conscious pain and suffering. The complaint alleged that the doctors had committed acts of malpractice, and asserted that the hospital was liable for the doctors' acts because the acts had been committed by the doctors within the scope of their employment by the hospital. The hospital cross claimed against the doctors for indemnification "in whole or in part" for the portion of the damages caused by their negligence. Plaintiff settled his claim against the doctors and discontinued the action against them. Special Term granted the hospital's motion to examine the doctors as parties with respect to the hospital's cross claim and denied the doctors' motion to amend the complaint of the action by deleting their names as parties. The Second Department affirmed by a vote of 4-1. The Court observed that the pleadings alleged that the doctors were primarily liable and the hospital derivatively liable for the death of plaintiff's intestate, and that the hospital would be entitled to indemnification from the doctors if plaintiff recovered a judgment against the hospital on that theory. The Court held that Section 15-108 governs contribution but not indemnification and, accordingly, rejected the doctors' claim that their settlement with plaintiff discharged the hospital's right of indemnification against them.

The Court, in *Felice*, cautioned that its ruling was predicated on the pleadings without the benefit of pre-trial disclosure and a trial. The Court observed that, if further proceedings in the action disclosed that the hospital was not derivatively liable because of negligent acts of its employees, e.g., its nurses, the hospital would not be entitled to indemnification from the doctors. In that situation, because of the negligence of its employees, the hospital and the doctors would be joint tortfeasors vis-a-vis each other and the settlement by the doctors would bar the hospital's right of contribution against the doctors under Section 15-108.

In *Heinsohn*, plaintiff was injured while being treated in the emergency clinic of a hospital. She settled her claim against the treating physician. She then sued the hospital alone for malpractice alleging that it was vicariously liable for the negligence of the doctor and other employees, servants and agents of the hospital. Her complaint further alleged that the hospital itself was negligent because of its failure to review procedures in the clinic and its failure to provide for "consultation with other members of the medical staff." The hospital impleaded the treating physician seeking indemnification from the doctor "in whole or in part" if it were found liable in the main action. The doctor moved to dismiss the third party complaint on the ground that, since he had settled with plaintiff, he was discharged from liability to the hospital because of Section 15-108. The Appellate Division affirmed Special Term's denial of the motion. The Court observed that the third party complaint was paradoxical in seeking indemnification "in whole or in part". According to the Court, indemnification means that a defendant is entitled to full reimbursement for its liability to a plaintiff while contribution means a defendant is entitled to apportion its liability. Nevertheless, the Court concluded that denial of the motion to dismiss was proper because of the possibility that a trial might show that the hospital was liable to plaintiff only on the theory of respondent superior. In that case, the hospital would be entitled to indemnification from the doctor.

In *Riviello*, plaintiff, while in a tavern, lost the use of an eye through the negligence of an employee of the tavern. Plaintiff settled with the employee for $25,000. In the trial of plaintiff's action against the tavern, the jury found for plaintiff on the theory that the tavern was derivatively liable for the employee's negligence and rendered a verdict in the amount of $200,000. The trial court reduced the verdict by

the amount of the employee's settlement — $25,000 to $175,000. In the Court of Appeals, the tavern argued that Section 15-108 was applicable and that, since it was only vicariously liable by virtue of its status as employer, the proportionate share of the employee, the released tortfeasor, was 100%, and that, accordingly, its liability was zero. The Court noted that the tavern's argument was "not without some facial justification" but rejected it. It held that the right of contribution and the right of indemnification were not equivalent doctrines. According to the Court, the right of contribution arises among several tortfeasors who share culpability for an injury to a plaintiff and whose liability may be equitably apportioned according to fault. On the other hand, the court stated, indemnification flows from either a contractual or other relationship between the actual wrongdoer and another, such as employee and employer, and involves a complete shifting of loss. The Court concluded that Section 15-108 was enacted to govern settlements in contribution cases but not settlements in indemnification situations.

Justice Stecher observed that settlement of multi-defendant tort cases by less than all of the defendants may now be difficult because of the possibility that a settling defendant may later be found liable by a jury for indemnification to another party. Justice Stecher also noted that, in cases where claims of contribution or indemnification are alleged, it is vital that the jury be instructed as to the law governing those claims and that special verdicts be used with respect to them.

The second topic on the agenda was the United States Supreme Court's *Orr* decision on March 5, 1979 [*Orr* v. *Orr*, _____ U.S. _____, 99 S. Ct. 1102 (1979)]. In *Orr*, the Supreme Court had before it the constitutionality of an Alabama statute which permitted the grant of alimony to wives but not to husbands. The Court held that the statute violated the equal protection clause of the Fourteenth Amendment to the United States Constitution because it predicated alimony awards on a gender based classification which did not serve an important government objective. The Supreme Court observed that Alabama could satisfy the Constitution by, "*inter alia*, amendments [to its alimony statute] which either (1) permit awards to husbands as well as wives, or (2) deny alimony to both parties."

Justice Boehm, who led the discussion with respect to this topic, noted that Section 236 of the Domestic Relations Law, New York's alimony statute, authorizes alimony awards to wives but not to husbands.

On March 20, 1979, approximately two weeks after the *Orr* decision, Justice Blyn in Special Term, Part V of the Supreme Court, New York County, rendered a decision with respect to the constitutionality of Section 236 [*Laka v. Laka*, _____ Misc.2d _____; _____ N.Y.S.2d _____; N.Y. Law Journal, March 20, 1979, at 13, Cols. 1-2 (Sup. Ct., 1979)]. In *Laka*, the wife had previously been granted temporary alimony and counsel fees, and now sought a money judgment for unpaid arrearages. The husband opposed on the ground that Section 237 was unconstitutional under *Orr*. Justice Blyn agreed with the husband that the statute as written was unconstitutional under *Orr* because it permitted wives but not husbands to receive alimony. Justice Blyn struck down so much of the statute as permitted wives only to receive alimony and interpreted the statute "to afford equal eligibility to both husbands and wives to apply for alimony." Justice Blyn, however, held that *Orr* should not be applied retroactively because to do so would require the elimination of previously granted alimony awards with chaotic and harsh results. Accordingly, Justice Blyn directed entry of judgment in the wife's favor for alimony arrearages. In his opinion, Justice Blyn cited *Thaler v. Thaler*, [89 M.2d 315, 391 N.Y.S.2d 331 (Sup. Ct., 1977), rev'd on other grounds 58 A.D.2d 890, 396 N.Y.S.2d 815 (2d Dept. 1977)], in which the now retired Justice Harnett of the Supreme Court, Nassau County, had reached the same conclusion prior to the *Orr* decision.

Justice Boehm observed that Section 236 was not the only New York matrimonial statute which predicated rights on the basis of the sex of the spouse. By way of example, he pointed to Section 237 of the Domestic Relations Law which grants counsel fees to a wife but not a husband in a matrimonial action; although counsel fees may be awarded pursuant to 238 of the Domestic Relations Law to either husband or wife in an enforcement proceeding. He also pointed to Section 5-311 of the General Obligations Law which prohibits "... a husband and wife from contracting to relieve the husband from his liability to support his wife or a wife from liability to support her husband provided that she is possessed of sufficient means and he is incapable of supporting himself and is or is likely to become a public charge." Thus, although a husband has a duty to support his wife, his wife need only support her husband under certain conditions. Justice Boehm observed that, while Alabama could judicially constitutionalize its alimony statute by deleting the word "husband" and substituting the word "spouse" as being entitled to alimony, such judicial alternative might be problematic with respect to Section 5-311 because of its language. Justice Boehm also noted that there is no common law right to alimony in New York [*Steinberg v. Steinberg*, 46 A.D.2d 684, 360 N.Y.S.2d 76 (2d Dept. 1974)] and that, if the alimony statute were declared unconstitutional, there would be nothing to fill the void until the legislature had acted. There was a consensus among the Judges at the Conference that, since the legislature has declared it to be New York's public policy that wives are entitled to alimony, the courts have a duty to maintain that policy by interpreting the alimony statute as permitting the award of alimony to husbands and wives. Such interpretation would serve a dual purpose of enforcing New York's public policy and of protecting constitutional rights.

The third topic discussed was contribution claims against parents. Justice Stecher led the discussion. The Court of Appeals has held that parents are liable to children for torts which violate a duty owing to everyone in general; that parents are not liable to their child for torts which violate a duty arising out of the family relationship, *viz.*, the duty to adequately supervise the child; and that a third person, sued for damages by a child, has no claim for contribution against the parents for failure to supervise [*Gelbman v. Gelbman*, 23 N.Y.2d 434, 297 N.Y.S.2d 529 (1969); *Holodook v. Spencer*, 36 N.Y.2d 35, 364 N.Y.S.2d 859 (1974)]. New York Courts have held that parents are liable to a third person for negligent entrustment to their child of a dangerous instrument which injures the third person [See, e.g., *Wheeler v. Bello*, 78 Misc.2d 540, 357 N.Y.S.2d 818 (Sup. Ct. 1974) (entrusting air rifle to infant); *Stasky v. Bernardon*, 81

Misc.2d 1067, 367 N.Y.S.2d 449 (Sup. Ct. 1975) (providing motorcycle to infant); and see *Pico v. Canini*, 47 A.D.2d 951, 367 N.Y.S.2d 304 (2d Dept. 1975)].

The liability of parents to their child for negligent entrustment to the child of a dangerous instrument which injures the child was decided by the Court of Appeals on December 27, 1978 in *Nolecheck v. Gesuale* [45 N.Y.2d 332, 413 N.Y.S.2d 340 (1978)]. Plaintiff's father had given a motorcycle to his sixteen year old son despite the fact that the son was virtually blind. The son and a friend went for a drive on their motorcycles, exchanged bicycles, and, while the boys were riding the motorcycles, the son was killed when he struck a steel cable placed across a road. The son could not see the cable. The father brought a wrongful death action against defendant who had suspended the cable across the road. Defendant counterclaimed against the father for a Dole apportionment of the damages on the theory that the father's entrusting a motorcycle to his almost blind son contributed to the son's death. The counterclaim was sustained. The Court by a divided vote held that entrusting a dangerous instrument to a child is merely negligent supervision so that a child injured by such negligence has no cause of action against its parent. By the same token, a third person sued for injury to the child has no right of contribution against the parent on the theory of negligent supervision. The Court, however, held that a parent has a duty to protect third persons from harm resulting from his child's improvident use of a dangerous instrument. In the case at bar, the Court acknowledged that no direct physical injury to defendant had been caused by the father's negligent entrustment of a dangerous instrumentality. Nevertheless, the Court found injury to the defendant because the father's negligent entrustment of the dangerous instrument was the proximate cause of defendant's being required to respond in damages for injury to the child. In short, the Court held that a parent's negligent entrustment of a dangerous instrument to his child does not create a cause of action in the injured child's behalf against the parent, but does establish a cause of action for contribution against the parent in favor of a third person who is required to respond in damages for the child's injury.

The fourth topic on the agenda was the Court of Appeals decision in *Sharrock v. Dell Buick-Cadillac, Inc.* [45 N.Y.2d 152, 408 N.Y.S.2d 39 (1978)]. Professor Siegel led the discussion on this topic. *Sharrock* involved the constitutionality of Section 184 of the Lien Law which authorized a garageman to conduct an ex parte sale of a bailed automobile to recover his repair and storage charges. The Court held that the statute violated New York State's due process clause [N.Y. Const. art. I, §6] because it deprived the owner of the automobile of an opportunity to be heard prior to permanent deprivation of a significant property interest. The Court found the requisite due process element of state action to exist because the Department of Motor Vehicles was required by Section 401 of the Vehicle and Traffic Law to record the transfer of title resulting from the ex parte sale. The Judges attending the Conference took the position that *Sharrock* does not require a judgment in a foreclosure action for sale of the bailed automobile. In their view, a garageman could lawfully sell a bailed automobile upon entry of a judgment in his favor in an action for his repair and storage charges because such an action would afford the customer the hearing required by *Sharrock*.

The fifth topic on the agenda was CPLR 7804(g) which was summarized by Professor Siegel. The statute requires Special Term to transfer Article 78 proceedings in which substantial evidence questions are involved. However, the statute authorizes Special Term to pass on "objections in point of law" prior to transfer to the Appellate Division. There was general agreement among the Judges at the Conference that the meaning of the term "objections in point of law" was not too clear; but that the term at the very least meant the threshold objections provided for by CPLR 3211(a), such as lack of jurisdiction or statute of limitations. Some of the Judges stated that the statute should be amended to require Special Term to determine the threshold questions just mentioned and, if the proceedings were not dismissed, upon such determination, to then transfer the case to the Appellate Division for determination of the substantial evidence question. Other Judges were of the opinion that the statute should be amended to provide that substantial evidence cases be determined by Special Term with Appellate Division review or that such cases be initially brought in, and determined by the Appellate Division.

The sixth topic discussed was CPLR 6313(a). It provides that, "[i]f, on a motion for a preliminary injunction, the plaintiff shall show that immediate and irreparable injury, loss or damages will result unless the defendant is restrained before a hearing can be had, a temporary restraining order [TRO] may be granted without notice." Professor Siegel asked the Judges what their experience was with respect to granting TRO's without notice. Many of the Judges stated that they required at least telephone notice to the adversary on applications for such relief. All of the Judges agreed that, when granting a TRO without notice, they insisted on strict compliance with the statute and required the earliest possible hearing date on the motion for a preliminary injunction. The Judges uniformly opposed New York's adoption of federal practice under which a TRO cannot be granted without notice unless it is established that notice cannot be effectively given or that the giving of notice would defeat the object of the TRO [*See* Fed. R. Civ. P. 65(a) (b)]. The Judges were of the opinion that such practice would unduly hamper the proper exercise of judicial discretion. Some Judges suggested that, if a TRO is granted without notice, a hearing as to the continuance of the TRO should be required the next business day; in which case, the hearing on the preliminary injunction could then be set down for a later date. Other Judges suggested that, if a TRO is granted without notice, the judge should be required to sign a specific statement in the TRO that the action is necessary with the reasons why.

The seventh topic on the agenda was the deposition of non-party witnesses. Professor Siegel led the discussion. The CPLR provides for "full disclosure of all evidence material and necessary in the prosecution and defense of an action" [CPLR 3101(a)] and further provides that such disclosure may be obtained, *inter alia*, by depositions before trial of parties and non-party witnesses [Ibid; CPLR 3102(a)]. Any party to an action may be examined before trial but non-party witnesses may be deposed only in certain circumstances [CPLR 3101(a) (3) and (4)]. One circumstance authorizing examination before trial of a non-party witness is the existence of "adequate special circumstances" warranting such deposition [CPLR 3101(a) (4)]. Pre-trial depositions of parties are obtained by notice to the party

sought to be exmained without prior leave of court [CPLR 3102(b)]. A subpoena must be served on a non-party witness a certain number of days prior to the scheduled examination of that witness [CPLR 3106(b)]. While it would appear that certain non-party witnesses may be examined before trial without prior court approval [*Compare* CPLR 3101(a0(3) *with* CPLR 3102(b)], it is not clear whether prior court approval is required for the pre-trial deposition of the "special circumstances" non-party witness. While CPLR 3102(b) provides for disclosure on notice without leave of court, CPLR 3101(a) (4) provides for disclosure by "any person where the court on motion determines that there are adequate special circumstances."

Several courts have concluded that, because CPLR 3102(a) provides for notice as the normal method for obtaining disclosure, prior court approval is not required for examination of the "special circumstances" non-party witness, and have held that a protective order is the appropriate remedy for any abuse of this disclosure device [*See, e.g., Spector v. Antenna and Radome Research Associates Corp.*, 24 A.D.2d 569, 267 N.Y.S.2d 843 (2nd Dept. 1966); *Bush Homes, Inc. v. Franklin National Bank*, 61 Misc.2nd 495, 305 N.Y.S.2d 636 (Sup. Ct. 1969)]. On February 16, 1979, Justice Egeth of Supreme Court, New York County, held that such pre-trial examinations could not be held without a prior court order in *Kurzman v. Burger* [98 Misc.2d 244, 413 N.Y.S.2d 609 (Sup. Ct. 1979)]. In that case, plaintiff had scheduled an examination before trial of a non-party witness by notice to defendant and service of a subpoena upon the witness. Defendant moved to quash the subpoena on the ground that there were no special circumstances warranting the examination. Justice Egeth granted the motion but not on the ground urged by defendant but because plaintiff had failed to obtain prior court approval for the examination. The Court held that such result was mandated by the language of CPLR 3104(a) (4) authorizing such examinations "where the Court on motion determines that there are adequate special circumstances." In the Court's view, permitting such examinations on notice serves to unduly burden the witness who usually has no stake in the litigation nor knowledge of the proceedings involved. In such a situation, according to the court, if the party adverse to the one seeking the examination fails to move for a protective order, the witness may be compelled to pay a lawyer to seek such relief. The requirement of prior court approval prevents such unfairness because the witness can be compelled to appear for examination only after the court has determined that it is legally justified.

There was no consensus among the Judges at the Conference as to whether prior court approval is required for pre-trial examination of the "special circumstances" non-party witness. The Judges agreed that they had seen such examinations sought by court order and upon notice. In their view, the practical difference between the two methods was that the former required a determination of special circumstances prior to the witness being subpoenaed, and that the latter mandated such determination upon an adverse party's motion after the service of the subpoena.

The eighth and final topic discussed was the disclosure of witnesses in tort actions. A party does not have a duty to disclose the names of the witnesses he intends to call at trial. [*Matter of the Estate of Zalaznick*, 86 Misc.2d 190, 331 N.Y.S.2d 199 (Surr. Ct. 1976)]. A party, however, can be compelled to disclose the names of witnesses who were active participants in the incident in litigation [*O'Dea v. City of Albany*, 27 A.D.2d 11, 275 N.Y.S.2d 687 (3d Dept. 1966)], as well as the names of eyewitnesses to the event [*Zellman v. Metropolitan Transp. Auth.*, 40 A.D.2d 248, 339 N.Y.S.2d 255, 258 (2d Dept. 1975)]. The First and Second Departments have held that there must be disclosure of the names of witnesses who would testify as to the notice and existence of a defective condition which caused the accident [*Zayas v. Morales*, 45 A.D.2d 610, 360 N.Y.S.2d 279 (2d Dept. 1974); *Barton v. Diesel Constr. Co.*, 47 A.D.2d 729, 365 N.Y.S.2d 197 (1st Dept. 1975)].

Professor Siegel summarized *Hennessy v. Benerofe* [63 A.D.2d 779, 404 N.Y.S.2d 756 (3d Dept. 1978)], in which the Third Department, despite a vigorous dissent, held that notice and condition witnesses need not be disclosed. Plaintiff had brought a negligence action which arose out of her falling in premises owned by defendant. The latter served a notice on plaintiff demanding the names of witnesses to the occurrence and of witnesses to the notice and the existence of the condition which caused the accident. The Third Department held that witnesses to the occurrence must be disclosed but that notice and condition witnesses need not be revealed. According to the court, disclosure of the latter category of witnesses is not required because such information constitutes attorney's work product and material prepared for litigation. In her dissent, Justice Mikoll noted that CPLR 3101 calls for full disclosure of all evidence material and necessary in the prosecution or defense of the action, regardless of the burden of proof. Justice Mikoll saw no difference between witnesses to the accident and witnesses as to the notice and existence of the condition which caused it. In her view, the spirit and intent of CPLR 3101 requires discovery of "all those who have witnesses at firsthand any element which reflects on liability."

There was a consensus among the Judges at the Conference that there should be disclosure of notice and condition witnesses because of the liberal disclosure spirit of the CPLR [See: CPLR 3101; *Allen v. Crowell-Collier Publ. Co.*, 2 N.Y.2d 403, 288 N.Y.S. 2d 449 (1968)], and because litigation is not a game but a search for the truth.

EVIDENCE

Professor Robert A. Barker
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The Evidence Panel was again expertly chaired by Dean Emeritus Jerome Prince. Justices Thomas M. Stark and Donald J. Sullivan served as members of the Panel which took up aspects of the following 10 topics: Impeachment of criminal defendants by prior, suppressed inconsistent statements; declarations against penal interest; impeachment by silence after arrest; using self-help to get around the dead man's statute; the *Sandoval* "compromise"; declarations of a co-conspirator; the silence of an alibi witness for impeachment purposes; the expert witness's intrusion into the prov-

ince of the jury; the interlocking confessions exception to the *Bruton* Rule; and admissions by an agent in criminal cases.

Impeachment by Suppressed Inconsistent Statement

In *People v. Harris* (25 NY2d 175 aff'd 401 U.S. 222) it was held that when defendant chooses to take the stand and testify exculpatorily, his confession, suppressed on grounds that his *Miranda* warnings had not properly been given, may be used to impeach that testimony. In *People v. Wise* (60 AD2d 921) the Appellate Division limited the *Harris* rule to situations where defendant actually discusses the prior statement in his direct testimony. The Court of Appeals reversed, stating that it is enough if "defendant recounts the events to which the prior inconsistent statement relates . . . Simply put, where a defendant's trial testimony offers one version of the events in question, and his prior remark to a public officer suggests a contrary view of these events, the jury is entitled to hear the previous statement so that it may fully assess the witness' credibility." (46 NY2d 321, 327, 328.) In *Wise* defendant, on trial, denied making any statements to the police. The statements were previously suppressed on *Miranda* grounds, indicating that the suppression judge found that statements had been made. What if he had found that no statements had been made? Should the People at trial through the rebuttal testimony of the police officer, after defendant's testimony on cross-examination that he made no statements, still be allowed this impeachment device? A Second Department majority, in a case handed down on the final day of the Crotonville meeting, held that it could be used. (*People v. Washington*, N.Y.L.J. June 28, 1978, p. 1, col. 6). The court relied on the *Wise* decision, but failed to note that in that case the suppression court apparently found that the defendant made the statements, suppressing only because *Miranda* had not been observed, whereas in *Washington* the suppression court found the statements were not even made.

Surely, where a statement has been coerced it may not be used for any purpose, even impeachment (*New Jersey v. Portash*, 99 Sup. Ct. 1292). In *Portash* defendant testified with immunity in a grand jury proceeding. At his subsequent trial he was informed that such prior testimony would be admissible for impeachment purposes. The Supreme Court held this error because of the essential involuntariness of testimony given under cover of immunity. The *Harris* rule, said the Court (see also *Oregon v. Hass* 420 U.S. 714), does not cover suppression because of involuntariness or coercion. (See also *Mincy v. Arizona*, 46 L.W. 4737, where it was held error to permit for impeachment statements taken from defendant who was questioned while barely conscious in the hospital, and who repeatedly asked for the help of a lawyer.)

Declaration Against Penal Interest

We have known for some nine years that a defendant may introduce at trial a declaration against penal interest for the purpose of exculpation. (*People v. Brown*, 26 NY2d 88.) We had not known, however, whether the prosecutor could use such statements to inculpate the defendant. Is there a confrontation problem? Would the collateral facts that go along with the statement be admissible? Or is only the precise declaration against interest admissible?

The first inkling that the prosecution could use such statements came in *People v. Harding* (37 NY2d 130) where three judges in dictum agreed that statements against penal interest given at an administrative disciplinary proceeding could be admissible at a subsequent criminal trial as such, although not admissible under the statutory or common law prior reported testimony exception. The Appellate Division in *People v. Cepeda* (61 AD2d 962) allowed the admission of such declarations, but only under cover of the harmless error rule. There was dictum in that case to the effect that defendant's right to confrontation was breached by this evidence.

In *People v. Maerling* (46 NY2d 289) the unanimous Court agreed that conceptually the prosecutor could introduce declarations against penal interest. In that case, however, the declarant's statements which were in any way against her interest did not encompass the crime for which defendant was being tried. Part of her statements were devoted to the fact she had overheard defendant and others plotting the crime. These facts were collateral to any statements affecting her interests, said the Court. Those statements indicated she had nothing to do with the commission of the crime. Thus, another question was answered. Only the precise declaration against penal interest is admissible if relevant to defendant's guilt. If the inculpatory part of the statement is collateral to the declarant's expression of his or her own guilt, then it is not admissible against defendant. If, for example, declarant stated that he and defendant committed a burglary that would be inextricably mixed up with declarant's own penal interest and not collateral. If, however, defendant talks about his own commission of a burglary and then adds that defendant burgled the same premises at a later time, the inculpatory reference to defendant would be collateral and inadmissible.

Crucial too, of course, are the circumstances under which the statement is made. In *Maerling* the reliability of the statements was suspect since at the time made declarant was seeking leniency in connection with an unrelated crime in which she was involved. Interestingly, the Court chose to write in *Maerling* even though the statements in issue were clearly inadmissible on any one of several grounds. Judge Fuchberg's opinion is a wide-ranging discussion of the problem of the prosecutor's use of the declaration. Yet, the confrontation question is nowhere directly addressed. Has it been answered indirectly where it is stated: "We therefore conclude that, conceptually, declarations against penal interest may be admissible against an accused"? (46 NY2d at 297.)

In *People v. Settles* (46 NY2d 154), a case like *Brown* where defendant sought to introduce a declaration, the Court imposed the rule that in order to insure reliability of the declaration "there must be some evidence, independent of the declaration itself, which fairly tends to support the facts asserted therein." In other words, a foundation must be provided putting the declaration in a context of reliability. The Court listed four requisites to admission: 1 — That

declarant be unavailable; 2 — that when the statement was made the declarant was aware that it was adverse to his penal interest; 3 — that declarant must have had competent knowledge of the facts and no motive to misrepresent; and 4 — supporting circumstances independent of the statement itself attesting to trustworthiness. (46 NY2d at 167.) By way of illustration of the last point the Court stated that evidence placing declarant at or near the scene of the crime about which he speaks, or proof of his possession of fruits or instrumentalities, would suffice (46 NY2d at 169).

This surrounding evidence of trustworthiness would have to be laid as a foundation to admissibility out of the presence of the jury in the case of a defendant who seeks to introduce the declaration. Where the prosecutor seeks to introduce the declaration against the defendant, defendant is entitled to an evidentiary hearing to test admissibility. The question arose during panel discussions whether the prosecutor should give notice of his intention to use such a statement whereupon defendant would be entitled to a pre-trial hearing on the question. The judges were in favor of this procedure by a two to one margin.

Silence After Arrest

In *People v. Rothchild* (35 NY2d 345) the Court ruled that where a policeman remained silent when arrested for extortion that silence could be used to impeach his trial testimony that he was merely setting up the complainant for a bribery arrest. If that exculpatory story were true, said the Court, defendant, as a police officer, would have had a duty to speak up at the time of arrest. The Court acknowledged, however, that his silence could not be used as an admission by the prosecutor because of his constitutional right to maintain silence. In *Doyle v. Ohio* (426 U.S. 610) the Supreme Court ruled that defendants, who were not police officers, could not be impeached by their silence upon arrest since silence was one of their *Miranda* rights. Did that decision overrule *Rothchild* or does it make a difference that the culprit is a public officer who has some sort of duty to speak not applicable to other citizens? The Appellate Division majority in *People v. Bowen* (65 AD2d 364), based on that distinction between *Rothchild* and *Doyle*, felt that *Rothchild* was controlling since, in *Bowen*, defendant was a Housing Authority patrolman who said nothing upon his arrest for rape, but who testified at trial that he was simply trying to aid the victim when arrested. The subject distinction caused considerable discussion among the groups, majorities in three of which were in agreement that *Rothchild* had not been overruled by *Doyle*. The fourth group voted conversely.

Also of interest in *Doyle* is footnote 11 (426 U.S. at 620) which advises that where defendant testifies on direct that he gave his exculpatory story at the time of arrest, rebuttal evidence of his silence is admissible. Purportedly relying on this rule, the Appellate Division in *People v. Savage* (N.Y.L.J., May 31, 1979, p._____, suppl. materials p. 2213) held that where the prosecutor leads defendant into such a statement for the first time on cross-examination it is proper to introduce rebuttal evidence of his silence at the time of arrest. The judges in all the groups were nearly unanimous that this was an incorrect interpretation of footnote 11 in *Doyle*.

Self-Help In Surmounting The Dead Man's Rule

Section 4519 of the CPLR has suffered severe blows in holdings by the First and Second Departments. Where one party dies after his deposition is taken, but before trial, the other party may properly introduce the deposition into evidence under CPLR 3117 and then claim the door has been opened for his own, in-court testimony which would otherwise be blocked by CPLR 4519. The dead man's statute contains an exception to its application where "... the testimony of the lunatic or deceased person is given in evidence ..." There are, said the Second Department in *Ward v. Kovacs* (55 AD2d 391), no restrictions in that wording as to the party who may introduce the deceased's testimony. The majority conceded that this exception had been recogniz d in prior case law as resting on a waiver concept, i.e., that only the deceased's representative could open the door to adversary testimony by introducing the deceased's testimony. The literal reading of the statute was in avowed pursuance of a policy to limit its application where at all possible.

The waiver concept had been duly employed by the trial court in *Tepper v. Tannenbaum* (87 Misc. 2d 829). The Court there followed the Third Department's case of *Foro v. Doetsch* (39 AD2d 150, aff'd 33 NY2d 767) in which, in a concurring opinion, it was held that a party could not open his own door by introducing the deceased adversary's deposition. The First Department reversed in *Tepper*, choosing to follow the new reasoning in *Ward v. Kovacs* characterized in a dissent in *Ward* as judicial legislation. The *Tepper* court avoided the effect of the affirmance in *Foro v. Doetsch* by pointing out that it was without opinion and must be assumed to rest on the majority opinion of the Appellate Division which did not discuss the matter—this, even though all the justices concurred in the concurring opinion which specifically held the self-help procedure improper. In sum, there presently exists a split in the Appellate Division departments concerning, in effect, the viability and desirability of the dead man's statute. The judges in all groups were evenly split on the question whether section 4519 should be repealed.

In a related area the court in *Siegel v. Waldbaum* (55 AD2d 555) ruled that although the prior reported testimony statute, CPLR 4517, could not be used as a hearsay exception to admit plaintiff's deposition (an EBT is not a "former trial" under the section), the common law prior testimony rule, as set forth in *Fleury v. Edwards* (14 NY2d 334), could be utilized to effect the same result. Plaintiff in that case could not testify to the transaction in issue since his adversary had died prior to trial. His only way to make out a prima facie case was somehow to employ his deposition.

The Sandoval Compromise

People v. Ocasio (_____ NY2d _____, decided May 3, 1979) was duly noted for the clear holding that the *Sandoval* procedures and standards do not apply to non-defendant witnesses.

Considerable discussion was generated over Justice Levy's handling of the *Sandoval* procedures in *People v. Bermudez* (414 NYS2d 645). Noting the uneven application of the standards set forth in *People v. Sandoval* (34 NY2d

371), and the undue prejudice to defendants where the facts underlying prior convictions may be brought out for impeachment purposes, Justice Levy fashioned what he termed a compromise whereby defendant could only be asked on cross-examination whether he had ever been convicted of a felony or misdemeanor. The facts underlying those convictions are not to be made known to the jury. Although in *Sandoval* the court indicated that prior convictions for crimes involving dishonesty were more desirable for impeachment purposes, it there approved a conviction for a crime of violence. Although in *Sandoval* the court indicated that prior convictions for the same or a similar crime for which defendant is being tried would be prejudicial as showing predisposition, such impeachment has been allowed in later cases (e.g. *People v. Rakman*, 62 AD2d 968, aff'd _____ NY2d _____). And although convictions showing drug dependency were frowned on in *Sandoval*, the court in *People v. Duffy* (36 NY2d 258) permitted evidence of drug use to impeach the defendant as prior immoral, vicious or criminal acts. In short, trial judges have perhaps less guidance under *Sandoval* and the cases following it than they had before. Thus, the compromise. After it is determined at the *Sandoval* hearing which crimes the prosecutor may use, the defendant, if he takes the stand, may be confronted only with the fact of the conviction, without more. If the judge allowed prior convictions for violence, or drug use, or similar crimes, there could be no prejudicial effect. The judges in all the groups found, two to one, that this was a desirable way to deal with *Sandoval*.

Note that the compromise does not attempt to deal with impeachment by prior immoral, vicious or criminal acts. The problems of prejudice and unreliability here are so great that the judges indicated either they did not allow the technique at all, or would allow only prior acts which involved traits of dishonesty.

Declarations of a Co-conspirator

A little discussed hearsay exception in the annals of New York law is that pertaining to co-conspirators' declarations which must be made during the ongoing conspiracy and in furtherance thereof to be admissible. The Court in *People v. Liccione* (63 AD2d 305) took up the question of what "in furtherance" meant. Must the statement be an operative element of the conspiracy, or only pertain to the fact that a conspiracy is afoot? The second theory was adopted by the *Liccione* majority. In that case, as the hired assailant attacked the victim, he told her that her husband had hired him for the job. The dissent would not have allowed in those statements (admissible through the victim's dying declarations) because they were unnecessary to the carrying out of the conspiracy. The majority conceived of the statements as part of the the res gestae — words accompanying the commission of the crime — stating: "The act was in furtherance of the conspiracy, the words in explanation of the act were part of the *res gestae*, and the assailant's statements were admissible against defendant as declarations of a co-conspirator [citations]." (63 AD2d at 323.) The panel received varying reactions among the groups as to whether the stricter or looser theory of "furtherance" ought to apply and there was a roughly equal division of opinion.

Silence of Alibi Witness

Can the alibi witness be asked on cross-examination whether he made any effort to exonerate the defendant prior to trial? The Court in *People v. Clark* (64 AD2d 669) held this proper upon limiting instructions that 1) an alibi witness has no obligation to come forward and contact the authorities, and 2) that the jury must consider such testimony and give it such insight on the issue of credibility as it deems proper under the circumstances. Other decisions condemn this form of impeachment (e.g. *People v. Burgos*, 415 NYS2d 219).

The groups were not aligned on the question and no consensus could be reached. An often heard reason for not allowing such impeachment is that in many cases either the witness did not want to become "involved," or the last person on earth he would confide in would be a police officer or someone from the prosecutor's office. The split among the judges reflects the split in the case law.

Expert Witnesses — Intrusion Into The Jury Province

If there ever was a New York rule against an expert witness rendering an opinion on the very question reserved for the jury, it now appears drastically compromised. In *Kulak v. Nationwide Ins. Co.* (40 NY2d 140) the court very clearly held that although it was proper for attorneys to testify as experts as to what is involved in settling personal injury cases generally, it was error for them to proceed to render an opinion as to whether settlement negotiations were properly carried out in the case at hand. That, said the court, was the ultimate question for the jury based on their application of the general principles enunciated by the experts.

Then, in *Selkowitz v. County of Nassau* (45 NY2d 97), the court held that it was proper for plaintiff to put on a retired police officer as an expert in emergency traffic procedures to testify that a county patrolman improperly positioned his car during a high speed chase so that the escapee was forced into plaintiffs' vehicles. The majority obliquely cited *Kulak* at the end of the opinion which was to the effect that even though the lay jury would be aware of what constituted safe driving practices it could benefit from the expert's explanation of the special standard of care (although nowhere codified or written down) which should govern high speed chases. The dissent, relying on *Kulak*, said that the expert invaded the province of the jury.

These cases highlight the difference between the federal rule, and what has been thought of as the New York rule. Rule 702 of the Federal Rules of Evidence permits any expert testimony which will "assist" the trier of fact; the subject matter need not necessarily be beyond the ken of the ordinary juror. The New York rule banned such opinion testimony where the subject matter is within lay comprehension. At least lip service was given that rule until the decision in *Selkowitz*.

The judges, by a three to one margin, considered the *Kulak* limitations wrong and welcomed the apparent relaxation of the rule in *Selkowitz*. Moreover, in several notable

instances the experts have always been allowed to invade the jury's province. This is true with regard to medical testimony in personal injury actions and psychiatric testimony in insanity defense cases.

The Bruton Rule — Interlocking Confessions

It is error on the ground of lack of confrontation to introduce against a defendant the confession of a non-testifying co-defendant which implicates both parties (*Bruton v. United States*, 391 U.S. 123). The Court of Appeals in *People v. McNeil* (24 NY2d 550) carved out an exception to the *Bruton* rule which provides that where both defendants have given the same or closely similar statements the prejudicial aspect is erased. This exception was recently reinvigorated in *People v. Safian* (46 NY2d 181, 190) where the Court stated: "Thus, it would have been of little benefit to Safian to confront Miner about his confession when Safian himself had admitted the same facts albeit with different versions of street language."

The United States Supreme Court's stamp of approval was placed on this exception in *Parker v. Randolph* (47 LW 4592, May 29, 1979) where Justice Rehnquist said: "Nor does the natural 'motivation to shift blame onto others,' recognized by the *Bruton* Court to render the incriminating statements of codefendants 'inevitably suspect,' ... require application of the *Bruton* rule when the incriminated defendant has corroborated his codefendant's statements by heaping blame onto himself."

What if the co-defendant, having failed at a suppression hearing to quash his confession, continues to argue against its voluntariness at trial? Should this *Bruton* exception permit the introduction of his non-testifying co-defendant's confession against him where he denies the validity of his own confession? Most judges felt that such a situation would render inoperable the *McNeil, Safian, Parker* exception.

Admission By Agent In Criminal Cases

There is, on the civil side, much literature concerning the question whether and under what conditions the admission of an agent can be introduced against the principal (Richardson On Evidence, Prince, 10th Ed. §253). The precedent is sparse on the criminal side. In *People v. Rivera* (58 AD2d 147, *aff'd* 45 NY2d 989) such an admission was allowed against the defendant. In that case defense counsel made a formal motion in the criminal action with a supporting affidavit which, inter alia, admitted that defendant said that he was in possession of marked money upon his arrest. At trial defendant testified and denied that the marked money was in his possession. On cross-examination the court allowed the contradictory statement in the attorney's affidavit for impeachment purposes only.

The Appellate Division, First Department, majority concurred in the holding that not only was the affidavit statement admissible to impeach, but that it was admissible also as evidence-in-chief as a "vicarious admission." The rule in civil cases — that a statement by an agent of a party within the scope of his authority is admissible as an admission against the party — was given full effect. And because the admission was contained in the affidavit submitted on a formal motion, it was stated: "Indeed, the quoted statement about the marked bill seems to go beyond an evidentiary admission and is almost a form of judicial admission." A Third Department case holding it error to permit cross-examination of a defendant on the basis of his attorney's affidavit (*People v. Martino*, 256 App. Div. 406, 410) was noted by the court, but not followed.

The Court of Appeals' affirmance of *Rivera* was based on the Appellate Division majority opinion "except to note that the averments in the attorney's affidavit are more properly admissible under the rule governing 'informal judicial admissions' described in section 217 of Richardson on Evidence (10th ed.) rather than the rule governing 'formal judicial admissions' described by Richardson in section 216 of his treatise. Informal judicial admissions, as distinguished from formal judicial admissions, are not conclusive on the defendant in the litigation." (45 NY2d 889, 890, 891.) Aside from that distinction, the *Rivera* case seems to have produced a new rule as regards the effect of admissions by agents in criminal cases.

CRIMINAL LAW AND PROCEDURE

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Reporter

It was a pleasure to serve once again on the Criminal Law and Procedure Panel. Our Chairman this year was Joseph W. Bellacosa, Clerk of the Court of Appeals and other members of the Panel were County Judge Michael W. Duskas and Acting Supreme Court Justice Lawrence J. Tonetti.

Our discussions this year focused upon: the 1978 juvenile offender legislation; insanity acquittal problems; right to counsel; contempt and perjury in the grand jury; sufficiency of pleading in indictments; charging lesser included offenses; plea withdrawals; search and seizure; presumptions; and newly enacted laws.

Juvenile Offender Legislation

Joseph Bellacosa pinpointed two issues that appear to have caused concern in interpretation of the 1978 Juvenile Offender Legislation (L 1978, ch 481). The first of these, the problem raised in *Matter of Vega v. Bell*, 67 A.D.2d 420, is whether a juvenile offender may be indicted by a grand jury without first being afforded a hearing in a local criminal court on the issue of whether the interests of justice require removal of the action to Family Court. The First Department had held in *Vega* that in the class of cases where a local criminal court has the power to order removal without the consent of the prosecutor the Legislature had made the removal hearing a jurisdictional prerequisite to the grand jury's right to indict, because in such cases the local criminal court hearing is the only stage at which removal can be ordered without consent of the prosecutor. Thus, the First Department created an exception to the general rule that a grand jury has the power to indict without regard to proceedings in the local criminal court (see *People ex rel. Hirschberg*

v. *Close*, 1 NY2d 258, 261). The Court reasoned that absent this exception the prosecutor would be able to deprive a defendant of the important statutory right to obtain a "purely judicial" decision on removal.

Mr. Bellacosa noted that the Court of Appeals had already heard argument in this case[1] and also that a bill had passed the Legislature which, if approved by the Governor, would make this problem moot.[2]

Under the new legislation a local criminal court would have no discretion to remove a case to the Family Court without the request of the district attorney. A motion to remove could be made either before or after indictment, but the motion would be made in a superior court and, where made before indictment, the superior court judge or justice would sit as a local criminal court to rule upon reasonable cause as well as upon the issue of removal. Thus the defendant would have an opportunity to obtain removal without consent of the prosecutor both before and after indictment.

The other problem in interpretation covered by Mr. Bellacosa was the "interests of justice" standard for removal to the Family Court. He pointed out that the Court of Appeals has criticized use of this standard in another context because it lacks specific criteria for the responsible exercise of discretion and renders effective appellate review difficult, if not impossible. *People v. Belge*, 41 NY2d 60, 62. However, there did not appear to be any disagreement with the conclusion that the standard can survive an attack founded upon the charge that it is incompatible with due process, and in this connection specific attention was directed to Judge Rosenblatt's opinion in *People v. William*, 97 Misc 2d 42.

This problem too will become moot upon enactment of the pending legislation (see footnote 2, *supra*). The proposed law sets forth nine factors for the court to examine in making its determination as to whether removal is in the interests of justice (see proposed CPL §210.43, Senate 6357).

Examining the proposed new law, Mr. Bellacosa was troubled by the provision that requires *immediate* notification of a parent or guardian when a juvenile offender is taken into custody. He pointed out that the use of the term "immediately" rather than the familiar "without unnecessary delay" could cause difficulty in ruling upon collateral matters, such as statements taken from arrested juveniles prior to notification of parent or guardian.

Mr. Bellacosa also noted that the law is unclear with respect to whether the People will have the right to appeal a decision removing a case to the Family Court. He noted there was no doubt that a defendant would be able to have appellate review of a refusal to remove as part of the appeal from a judgment of conviction. The question is whether the removal, which under the statute would terminate the criminal action and bar further criminal proceedings, would be reviewable by appeal on the part of the People. The juvenile offender law does not provide for such an appeal and an order of removal apparently does not qualify under CPL §450.20, the section that specifies the cases in which an appeal by the People to an intermediate court is authorized.

In discussions with the four groups there was very little concern expressed with regard to the clarity or interpretation of any other provision of the 1978 juvenile offender provisions.

Insanity Acquittal Problems

Judge Duskas led the discussions with respect to insanity acquittal problems. Throughout these discussions, in all of the groups, there was a strong concensus that both the insanity defense and the procedures for dealing with persons acquitted on the ground of lack of mental capacity should be reevaluated.

After reviewing the statutory provisions for commitment and release (CPL, §330.20), Judge Duskas raised the question of whether the application for discharge or release ought to be made to the court by which the commitment was made. From a conceptual standpoint, he opined, this procedure is too clearly aligned with the notion that the discharge or release application is somehow a continuation of the criminal proceeding. The criminal proceeding however has been terminated and the statute itself contains recognition that any hearing "shall be deemed a civil proceeding." CPL, §330.20[3]. A number of judges pointed out that the provision seems reasonable, since the judge who presided at the trial would have a working familiarity with the matter.

Continuing with his analysis, Judge Duskas probed the logic of: (1) presuming that a person who has been acquitted on the ground of mental incapacity has been shown to meet the necessary criteria for involuntary civil commitment (see *People ex rel. Henig v. Commissioner of Mental Hygiene*, 43 NY2d 334); and (2) requiring such a person to shoulder the burden of proof in a proceeding where he seeks discharge or release (see *Matter of Lublin v. Central Islip Psychiatric Center*, 43 NY2d 341).

In New York State an acquittal on the ground of lack of criminal responsibility by reason of mental illness or defect does not require a finding that the defendant was mentally ill or deficient at the time of the crime. It merely signifies that the People have failed to prove the defendant's mental capacity beyond a reasonable doubt. Moreover, Judge Duskas pointed out, the issue does not even concern defendant's present mental condition: it concerns his condition at the time of the crime, which could well have been several years prior to the trial.

It was noted in the discussions that the Court of Appeals has given recognition to the difference between an acquittal on the ground of mental incapacity and a finding of mental illness in an involuntary commitment proceeding by interpreting the automatic commitment upon acquittal provision of CPL 330.20 as providing primarily a commitment for detention, examination and report as to mental condition, and that the committed person is entitled to a prompt hearing (*People ex rel. Henig v. Commissioner, supra*). Moreover,

[1]On July 9, 1979 the Court of Appeals unanimously reversed the First Department's judgment, stating that it would not "interpret the statutory scheme as creating such a novel and cumbersome mechanism without a much clearer indication of legislative interest to so elevate local criminal court arraignment proceedings" (Slip Op. p. 7).

[2]Approved by the Governor on July 7, 1979 (L 1979, ch 411).

such person also is entitled to a jury trial on the issues that would be tried under an involuntary civil commitment. *People v. Lally*, 19 NY2d 27; see also *People ex rel. Henig v. Commissioner, supra*, at p. 339. Therefore, the automatic commitment upon acquittal, limited to temporary detention for an examination, could well be supported as a reasonable exercise of the State's *parens patriae* powers.

The more difficult questions involve the burden of proof and the standard of proof to be applied in the proceeding for discharge or release. Judge Duskas noted that the Court of Appeals had held that the burden of proof should be on the committed person to prove by a fair preponderance of the evidence that he may be discharged or released without danger to himself or others. *Matter of Lublin v. Central Islip Psychiatric Center*, 43 NY2d 341. He pointed out that this apparently conflicts with the holding of the United States Supreme Court in *Addington v. Texas*, 99 S. Ct. 1804, where it was held that the State has the burden of proving the need for commitment by clear and convincing evidence.

Mr. Bellacosa interjected that in *Addington* the Supreme Court was dealing with commitment, while in *Lublin* the New York Court of Appeals was dealing with discharge or release. Accordingly, Mr. Bellacosa suggested, *Addington* may not necessarily affect *Lublin*. In *Lublin* the Court specifically noted that the patient was not challenging the validity of his initial commitment and the Court assumed a valid commitment.

The discussion then turned to the decision of the Second Department in *Matter of Torsney*, 66 AD2d 281.* There the Court was dealing with an application by the Commissioner of Mental Hygiene for an order discharging a person committed to his custody under CPL 330.20. After noting that the burden of proof was on the petitioner to show by a fair preponderance of evidence that the person may be discharged "without danger to himself or others" (CPL 330.20[3]), the Court interpreted the "without danger" standard to mean "not likely to result in serious physical harm" and held that this test could be applied without a predicate showing of mental disease or defect or even need for treatment.

There was substantial division of opinion among the judges relating to the standard adopted by the Second Department which, although literally consistent with CPL 330.20, nevertheless is contrary to the standard applied in testing the continued detention of involuntary patients committed under procedures other than the one applicable to persons acquitted for lack of criminal responsibility. The views expressed in disapproval of the opinion were based upon a synthesis of the controlling cases from which the conclusion may be derived that the only permissible distinction between the procedures for dealing with an acquitted criminal defendant and a purely civil committee lies in the automatic commitment of the former solely for the purpose of a prompt examination and report in accordance with the procedure upheld in *Henig*.

*Subsequently reversed (47 NY2d 667) on the issue of the standard for release of persons held in custody pursuant to CPL 330.20.

Quite apart from the issue of the standard, however, the issues of burden of proof and weight of the evidence remain troublesome. If the Commissioner is of the opinion that a person should not be discharged after making a *Henig* appraisal, must the State commence a civil commitment proceeding? If the State does not commence such a proceeding and the patient seeks release, is the patient challenging continued confinement as in *Lublin* or the original mandatory, automatic commitment approved in *Henig*? Can the presumption approved in *Henig* (which is merely a ground for further examination) take the place of the requirement of proof by clear and convincing evidence that the patient should be hospitalized, and if not, what procedure should be used?

These and other questions were raised as indicia of the need for a complete reexamination of the law pertaining to the aftermath of a successful insanity defense.

Right to Counsel

I led the next discussion, which dealt with developments under the *Miranda* doctrine as well as our New York *Donovan-Arthur* rule requiring that waiver of the right to assistance of counsel be made in the presence of counsel in certain situations.

We first noted two cases relating to the issue of whether defendant actually intended to waive his right to the presence of a lawyer for custodial interrogation. In *North Carolina* v. *Butler*, _____ US _____, 99 S. Ct. 1755, the Supreme Court rejected the contention that there must be an express waiver and held that a court may find an intelligent and understanding rejection of counsel in the defendant's course of conduct. In *Butler* the defendant, after receiving his *Miranda* information, refused to sign a written waiver form. He was then told that he need not speak or sign the form but that the officers would like him to talk to them. He replied that he would talk, but that he would not sign the form. This, the court concluded, was sufficient to constitute a waiver.

A somewhat different factual situation was considered in *People v. Grant*, 45 NY2d 366, where the Court of Appeals considered the following sequence of events. The defendant, after arrest and while in custody at a police station, but before being advised of his rights, indicated willingness to talk to an assistant district attorney. When the assistant arrived and administered the *Miranda* warnings, the defendant requested assistance of counsel. The questioning was terminated and the defendant was taken from the room by the arresting officer who told the defendant of certain witnesses that would testify against him. The defendant then stated that he would speak with the assistant prosecutor, received fresh *Miranda* warnings and confessed. The time span between the first and second interviews was approximately 10 minutes. In rejecting the People's contention that the defendant had waived, the Court focused upon the fact that this was not a case where the defendant had merely indicated an unwillingness to talk (see *Michigan* v. *Mosely*, 423 US 96), but rather a situation where the defendant had asked to consult with counsel. He had "expressed his own view that he is not competent to deal with the authorities without legal advice"

(45 NY2d 366, 375). However, the Court found it unnecessary to decide whether the request for counsel erects a *per se* bar to a subsequent uncounseled waiver, holding instead that *Miranda* at least requires the authorities to "scrupulously honor" the request for counsel before continuing interrogation. In the instant case, the Court noted, no steps had been taken to afford the defendant an opportunity to an attorney's assistance, the officer's comments undermined the defendant's original decision, there was no significant time break between the two interrogations and no change of parties, place or subject matter of the interrogation. "In short on this record it cannot be said that the authorities 'scrupulously honored' the defendant's request for counsel before resuming the interrogation and the confession should have been suppressed," the Court stated (*id.* at p. 377).

The group discussions of *Grant* centered upon the question of whether there is or should be a *per se* rule where the defendant requests counsel. The Court of Appeals, in effect, had said that the *Grant* situation would not even pass the test for further interrogation in a case where the defendant simply indicates a desire to cut off questioning, and the Court had no occasion to pass upon the question of whether there is or should be a more stringent test where there is a request for counsel. Therefore the question of whether something more stringent than the "scrupulously honored" test would apply is still open.

At issue here is the Supreme Court's statement in *Miranda* that: "If the individual states that he wants an attorney, the interrogation must cease until an attorney is present. At that time, the individual must have an opportunity to confer with the attorney and to have him present during any subsequent questioning," (384 US 436, 474). I pointed out that this language does not deal with waiver and that a distinction can be made with respect to waiver even in the face of the interpretation given the above *Miranda* language in *Michigan v. Mosley* (423 US 96), where the Court distinguished between questioning resumed after scrupulously honoring the right to cut off questioning and questioning resumed after a request for an attorney, approving the former and quoting the above language to indicate the procedure for the latter (*id.*, at p. 104, n 10). I cited the fact that the Court had not required the presence of counsel for a waiver even after the right to counsel has attached and the defendant has counsel (see *Brewer v. Williams*, 340 US 387, 405). Moreover, the *Miranda* rules do not deal with the right to counsel, but rather create a prophylaxis aimed at protecting the privilege against self-incrimination by dispelling the inherently compelling pressures of custodial interrogation: they are focused upon the danger that the defendant's will to resist will be undermined, rather than upon his right to legal assistance (see, *e.g.*, *Beckwith v. United States*, 425 US 341). The Supreme Court might of course require a clearer demonstration of waiver than it did in *Mosley* or in *Butler, supra*; but this would probably be based upon increased skepticism as to whether the waiver was voluntary, since the defendant initially had expressed his own view that he was not competent to deal with the authorities without advice of counsel. In this connection it should also be noted that there may well be some distinction drawn between the importance of an "intelligent" waiver as distinguished from a "knowing" waiver when dealing with prophylactic devices rather than fundamental constitutional rights. The "intelligent" waiver requires that a defendant first be made aware of the dangers and disadvantages so that his choice is made with his eyes open (see *Faretta* v. *California*, 422 US 806, 835-6), while the "knowing" waiver could be construed as merely requiring that the defendant be informed of his rights without need for elaboration (*cf.*, concurring opinion of Mr. Justice Blackmun in *North Carolina v. Butler*, 99 S. Ct. 1755, 1759). In the pretrial situation the test is whether the statement was made voluntarily, not whether the statement was made after being advised of the pitfalls of talking without counsel.

The discussion then turned to the closely connected problems posed by the New York *Donovan-Arthur* rule. In New York, once the right to counsel has attached, a defendant cannot waive the presence of counsel unless counsel is present at the time of the waiver (see *e.g.*, *People v. Hobson*, 39 NY2d 479). The two troublesome questions are: (1) when does the rule apply; and (2) where the rule applies is it to be dealt with as a violation of the right to counsel or will our Court draw a distinction between (a) prophylactic protection of the privilege against self-incrimination and (b) the right to counsel under the Sixth Amendment (N.Y. Const. Art. 1, §6).

The Court of Appeals has indicated that the non waiver in the absence of counsel rule applies to: (a) custodial interrogation after counsel has communicated the fact of his representation to the authorities (*People v. Hobson*, 39 NY2d 483); (b) any "critical stage"* confrontation after indictment, irrespective of whether defendant has been arraigned and without regard to the fact that counsel has not entered the case (*People v. Settles*, 46 NY2d 154); (c) any critical stage confrontation after filing of a felony complaint or misdemeanor complaint or a court order of removal, if counsel has entered the case (*ibid.*, dictum); and (d) any such confrontation that occurs during an insufficiently explained delay between arrest and arraignment at which time judicial proceedings would have been commenced and counsel would have entered the case (see *People v. Blake*, 35 NY2d 331, 340; see also People v. Settles, 46 NY2d 154, 166). Except for the first of these situations, custodial interrogation prior to commencement of proceedings, the rule apparently applies irrespective of whether the confrontation is in a custodial or non custodial setting (see *People v. Roberson*, 41 NY2d 106).

The important question that remains unresolved however is whether the Court will deal with violation of the rule as a violation of right to counsel. Initially, it seems clear that the *Hobson* application of the rule is not a right to counsel situation, since there is no indication that the Court would

* As used herein the term "critical stage" is intended to describe the nature of the confrontation and not the timing. In *Settles* the Court of Appeals used the term to denote timing — "the critical stage commences upon the filing of an accusatory instrument" (*id.*, at p. 165). The US Supreme Court employs a two part analysis to determine when the Sixth Amendment right to counsel attaches: (1) the filing of an accusatory instrument; plus (2) the conduct of "a procedure that would impair defense on the merits if accused is required to proceed without counsel" (compare, *e.g.*, *Gerstein v. Pugh*, 420 US 103, 122 with *Moore v. Illinois*, 434 US 220). The second portion of this analysis is the "critical stage" portion. The Court of Appeals has not indicated the extent to which its analysis of what is or is not a critical stage would be more rigid than that of the Supreme Court.

apply it to the subsequent non custodial questioning of a person who previously had been arrested but released without filing of charges after counsel appeared at the stationhouse (see *People v. Hobson, supra,* at p. 483). Therefore, in the *Hobson* situation the Court apparently has not based its reasoning upon right to counsel grounds, but rather upon the prophylactic basis. The right to counsel does not attach and detach in a criminal case. If the Court were faced with the question of whether a statement taken in violation of *Hobson* may be used to impeach credibility where the defendant testifies in his own behalf (see *Oregon v. Hass,* 420 US 714), the cases would not lead one to conclude that the issue would be decided on violation of right to counsel grounds, and a good argument could be made for permitting such use of the statement. However, the other three situations outlined above (certainly [b] and [c] and arguably [d]) are based upon the right to counsel. The question here would be whether the Court would treat a violation of the *rule* as a violation of the right to counsel and bar the use of a statement made by defendant to impeach credibility if he takes the stand (*cf., New Jersey v. Portash,* 99 S. Ct. 1292), or permit such use if the defendant had waived counsel, albeit in the absence of counsel. Since the *Donovan-Arthur* rule is not a US constitutional requirement (see *Brewer v. Williams,* 403 US 387, 405), the Court of Appeals could well decline to apply the rule in a fashion that would preclude the use of the statement for cross examination, but this would be a much closer case.

A subsidiary consideration in administering the *Donovan-Arthur* rule involves determination of *when* counsel has entered the case in situations of custodial interrogation conducted prior to the filing of an accusatory instrument. We discussed three recent cases on this aspect of the rule.

In the first of these, *People v. Garfolo,* 46 NY2d 592, the Court of Appeals addressed the requirement that the police must be apprised of the lawyer's representation. The issues here involved the substance of the communication from the lawyer as well as the person to whom the lawyer's message must be conveyed. In *Garfolo*, the lawyer had represented the defendant on an unrelated charge and was called into service by the defendant's father, who could tell counsel only that the defendant had been taken away by two policemen. The lawyer contacted Suffolk County police headquarters and, having asked to speak with someone in charge, was connected with a detective. He advised the detective that he represented the defendant on a previous charge and that, though he was not aware of the nature of the defendant's present difficulty, he assumed it was unrelated. The detective contacted every relevant police squad in the county and when she contacted the squad where the defendant was held she was erroneously told that they did not have the defendant in custody.

Focusing first upon the substance of the lawyer's communication, the Court held that his statement to the detective was sufficient to constitute his entry on the new charge. The Court also reiterated its holding that there is no necessity for the lawyer to instruct the police to refrain from interrogation (see *People v. Arthur,* 22 NY2d 325, 329). Thus this case illustrates a situation that must be distinguished from the general rule that representation on an unrelated charge is insufficient to trigger the *Donovan-Arthur* doctrine (see *e.g., People v. Clark,* 41 NY2d 612; *People* v. *Coleman,* 43 NY2d 222). The distinction between this case and cases representing the general rule is that here the lawyer made an inquiry and expressed his professional interest.

To focus further upon subtleties in application of the unrelated charge distinction we also discussed *People v. Ermo,* 47 NY2d 863, where the Court, although reiterating the continuing vitality of the unrelated charge distinction, sustained the exclusion of a statement made in the absence of counsel because impermissible questioning as to the charge on which the defendant was represented had been used for the purpose and with the effect of advancing interrogation on the unrelated charge. Thus questioning on the unrelated charge, which would have been permissible, if pure, was impermissible because it was polluted. An interesting contrast was furnished by *People v. Rolston,* 68 AD2d 617, where the Second Department found it permissible to question in the absence of counsel in a situation where a defendant who was represented by counsel on a New York County gun possession charge subsequently was interrogated about a Queens County robbery committed on the same day as the possession charge with the same gun. The Court here (the same Court that had earlier found the pollution sustained by the Court of Appeals in *Ermo*) stated that even if the Queens police had learned of the Manhattan arrest such knowledge would not have polluted the Queens questioning.

Turning our attention to the second and more difficult part of the *Garfolo* analysis, we noted that the Court had held that the communication to the detective in central headquarters was sufficient to communicate notice to the interrogating officer in a separate squad room. Here the Court stated that the police have a responsibility to maintain an internal monitoring system. In a prior case, *People v. Pinzon,* 44 NY2d 458, the Court had charged the interrogator with notice that counsel had entered the case because the employee at headquarters had informed counsel the defendant was not in custody without having made any internal inquiry; but here there was a good faith attempt to locate the defendant. The Court "now makes explicit what was implied in *Pinzon*: that good faith efforts are made to locate a defendant who is taken into custody does not absolve the police of their responsibility if their internal procedures are inadequate . . ." (46 NY2d 592, 600-601)

The following problems apparently unresolved by *Garfolo* were noted and discussed without resolution. Will the attorney's call to headquarters be sufficient, or, if the attorney is told where the defendant is being held, must the attorney attempt to contact the interrogator? How will the Court apply its requirement of internal procedures in the case of a large sprawling police department such as New York City? Would a single call to central headquarters suffice, or would the lawyer be required to call a central command in each borough or some other subdivision? How would the principle apply in a county where there are state police, a sheriff, town police and a district attorney's office? Would the attorney have to call each and every separate agency? In dealing with State police, would he have to call each substation? The statement by the Court of Appeals that comes closest to dealing with these concerns is as follows (*id.,* at p. 601):

"On this score, we need not speculate as to how an adequate monitoring system should be constituted other than to say that it must be one reasonably calculated to achieve its purpose with swiftness and certitude. What measures need be adopted to secure this level of efficiency obviously will depend, among other things, on the complexity and size of a particular police department and its domain. Regardless of the method, it goes without saying that a system that promptly advises an attorney or others entitled to inquire of the client's status will also inform the relevant police unit that a defendant in its custody is represented by an attorney."

In another case on the timing of entry of counsel, the police deliberately engaged in a course of conduct designed to conceal the whereabouts of the defendant from outsiders. Here, although counsel did not attempt to enter the case until after the defendant confessed, the Court of Appeals noted that at the time of arrest the 18 year old defendant waived his rights but asked to see his mother. While not attaching decisional significance solely to the failure of the police to attempt to contact the mother of an 18 year old defendant, the Court amalgamated this factor with the conduct of the police in attempting to conceal the defendant and held that under the circumstances there was a police scheme to prevent an attorney from entering the case and therefore denial of the defendant's request to see his mother should be construed as part of the deliberate attempt to foreclose the possibility of entry of counsel. *People v. Bevilacqua*, 45 NY2d 508.

On the issue of when a request to see someone other than counsel should be honored, it was stressed in the discussion that there still is a general rule that a refusal to allow a parent access to the child is not tantamount to denial of counsel, at least in a case where the family knows of the detention (see *People v. Townsend*, 33 NY2d 37, 42), and that the question of whether a minor can waive his rights in the absence of parental guidance is one of fact (*i.e.*, competence and circumstances) not of law (see *People v. Stephen J. B.*, 23 NY2d 611). It also was noted that "the constitutional right to counsel does not metamorphosize into a right to consult clergymen, physicians or others whose capabilities in such situations vary materially from those of members of the Bar." *People v. Byrne*, 47 NY2d 117, 123. Further explication of this latter point was furnished in discussion of the Supreme Court's decision denying suppression of a statement made after refusal of an in-custody juvenile's (16½ yrs.) request to consult with his probation officer. *Fare v. Michael C.*, _____US _____, 99 S. Ct. 2560, 25 CRIM. L. REP. 3184.

Finally, on this subject of the entry of counsel, we discussed briefly the recent reaffirmance of the rule that the taint arising from failure to honor entry of counsel applies prospectively and not retrospectively, at least where there is some way of making a clear distinction. *People v. Byrne*, 47 NY2d 117.

Contempt and Perjury in the Grand Jury

Justice Tonetti led the discussions on recent developments involving grand jury contempt and perjury.

Concentrating first upon the companion cases of *People v. McGrath* and *Matter of Mancini v. Codd*, 46 NY2d 12, Justice Tonetti analyzed the route the Court followed in reaching the conclusion that questions based upon illegal wiretaps and the answers thereto can be used in criminal and disciplinary actions for grand jury evasive answer contempt and for grand jury perjury.

Initially, the Court noted that a witness is not entitled to a suppression hearing on the legality of the surveillance. The prohibition against grand jury use of illegal surveillance information (CPLR 4506[1], 18 USC 2518) operates only (a) in the absence of a court order permitting the eavesdropping, or (b) where there has been a successful suppression in a prior proceeding in another context, or (c) where the prosecution concedes illegality. If a witness challenges a question as being based upon an illegal wiretap, he is entitled to a ruling. Where the ruling does not support the contention of the witness he must answer or refuse to answer. Should he refuse to answer and be charged with contempt, he will be entitled to a suppression hearing on the legality of the surveillance, but this will be in his capacity as a defendant, rather than as a witness, because the issue at this point involves the use of the contempt power to punish a person for refusal to answer. He now asserts his standing as a defendant, rather than as a witness, and thus gains entitlement to the suppression hearing — *i.e.*, standing. However, at this stage he has placed himself at risk, because, if he is unsuccessful in his suppression attempt, he will be convicted for refusal to answer. The Court then distinguished a refusal to answer from an evasive answer or a false answer. In the case of an evasive answer or a false answer, the conduct of the witness dissipates the taint flowing from the unlawful conduct of the police and the question of whether the surveillance was unlawful is irrelevant. Thus, in such cases, a pre trial suppression hearing will be of no avail to the witness turned defendant, because he is to be punished for his independent, intervening conduct of testifying evasively or falsely, not for standing upon his right to refuse to answer. The question of whether he had a right to refuse to answer has no bearing in a prosecution for his evasive or false answer.

It should be noted that since neither of these cases involved questions based upon a warrantless wiretap, there may still be an open issue where a witness challenges a question and is erroneously directed to answer in a case where the witness was entitled to a suppression hearing. In such case the question would be prohibited by law, and the court would not be dealing solely with the issue of the use of evidence derived from an unlawful wiretap. It would be faced squarely with the issue of whether evasive contempt or perjury can be committed in response to questioning that violates the law.

Justice Tonetti expressed concern about what he deemed to be an anomaly in approving a defense of illegality for refusal to answer (*People v. Einhorn*, 35 NY2d 948), while denying a suppression hearing prior to forcing the witness to elect whether he will or will not answer (*People v. McGrath, supra*). This, he observed, forces a witness to gamble. If he is entitled to a suppression hearing after he has elected to refuse to answer, why not permit him to have the hearing before he is charged with contempt — *i.e.*, before he has

risked punishment? The reaction of the participants was mixed; because there was support also for the view that public policy runs strongly against permitting witnesses to delay inquiries by raising collateral issues.

Justice Tonetti then covered a number of recent cases dealing with perjury and contempt traps. These were: *People v. Shenkman*, 46 NY2d 232; *People v. Pomerantz*, 46 NY2d 240; *People v. Tyler*, 46 NY2d 251; and *People v. Rappaport*, 47 NY2d 308.

In this discussion he first pointed out that the cardinal rule for a grand jury witness is to refrain from evasive answers and false answers. Even if a witness has a right to refuse to answer, such right will provide no insulation where he answers evasively or falsely. The only possible insulation in such case is a finding that the question itself is unlawful (see *People v. Tyler, supra*).

The more difficult issue, however, is the extent to which the interrogator has a duty to jog the memory of the witness who claims an inability to remember or who is testifying falsely. In *Schenkman* and *Pomerantz* the questioning was addressed to events and details that were significant and therefore memorable. In both of these cases the interrogator also gave ample cues by repeating, restating and elaborating until it was apparent that further effort would be fruitless. Accordingly, those two cases throw little light upon the minimal requirements of fair interrogation where the witness is later accused of perjury or contempt. The *Tyler* case offers a contrast. There the Court of Appeals, in reversing a perjury conviction based upon the witness's narration of details surrounding a meeting, pointed out that the interrogator had never pressed the witness for a convincing narrative of the *content* of the meeting. The witness, therefore, was given no indication that the meeting itself was material to the investigation and, hence, no reason to make a particular effort to recall and relate the various details incidental thereto. Further, in this case, the interrogator did not even give the witness cues to indicate that there was contradictory evidence concerning the peripheral details of the meeting. Thus, there was no attempt "to make certain that the witness is not failing sincerely to recall details of no memorable significance" (46 NY2d 260-261).

The dilemma inheres in the conflict between the objective of the investigation — to ascertain the facts — and giving a witness an opportunity to mislead by tailoring his answers to the information in the possession of the prosecutor. If the prosecutor does not jog the memory of the witness, he fails to demonstrate that he was attempting to pursue the objective of the investigation. Where he does jog the memory, he runs the risk of tailored answers as well as the risk of revealing too much of how the investigation was conducted and how far it has proceeded.

Justice Tonetti opined that the basic rule is to "be fair" and that wherever there is doubt, it should be resolved in favor of the duty to jog the memory of the witness. The critical factor in determining the extent of the cues to be given in various situations is "the nature, and especially the intrinsic significance, or insignificance, of the event to be recalled . . ." (46 NY2d at 261).

Passing mention also was made of *People v. Rappaport*, 47 NY2d 308, where the Court held that a grand jury witness who has been granted immunity and warned concerning evasive contempt need not be readvised or contemporaneously warned that the answers he is giving are evasive and thus may constitute criminal contempt.

Sufficiency of Indictments

A brief discussion of *People v. Fitzgerald* (45 NY2d 574) and *People v. Iannone* (45 NY2d 589) was led by Judge Duskas.

Pointing out that the Court of Appeals has given narrow construction to CPL 200.50, which requires an indictment to contain a factual statement supporting the crime charged, Judge Duskas stressed the importance of the bill of particulars as the mechanism for providing a defendant with sufficient information as to the charge to enable him to prepare his defense.

Since the Court has approved the use of factual statements that do little more than echo the language defining the crime (where, when and what the defendant did), trial jurists will have to exercise careful surveillance to be sure that a defendant is not deprived of his right to be informed. The defendant who requests further information is entitled to have the substance of the charge fleshed out in a bill of particulars, even if he is not entitled to an indictment that pleads that substance. This brings into focus a very real role for the bill of particulars.

Judge Duskas also led a discussion of *Jaffe v. Scheinman*, 47 NY2d 188, where the Court of Appeals held that CPL 210.30 deprives a trial judge of power to make an order allowing a defendant or his counsel to inspect grand jury minutes. The inspection on a motion to inspect and dismiss must be by the trial judge alone, and the court cannot disclose the minutes, even for the purpose of facilitating argument on the motion to dismiss the indictment.

In the discussions of *Jaffe* there appeared to be support for a change in the statute to allow the judge to disclose the minutes when in his discretion no vital interest of the prosecution would be sacrificed and there was a need to hear informed argument on the motion to dismiss.

Charging Lesser Included Offenses

Justice Tonetti reviewed some recent decisions that deal with the problem of lesser included offenses.

People v. Discala (45 NY2d 38) and *People v. Johnson* (45 NY2d 546) served as focal points for review of the familiar rule that a court must submit a lesser included offense if there is a reasonable view of the evidence which would support a finding that the defendant committed the lesser offense but did not commit the greater. Justice Tonetti pointed out that the Court of Appeals has been very exacting in its interpretations of this rule and accordingly the trial judge must take care to avoid being fixated by overwhelming proof of guilt of the higher count. The focus instead must be

upon the lesser included count the judge is requested to charge. The trial judge must appraise this request from a viewpoint that gives recognition to the jury's freedom to accept or reject part or all of the defense or prosecution's evidence. The proper inquiry is whether there is any reasonable combination of acceptance and rejection of evidence in the case that would support a finding that the defendant committed the lesser but not the greater offense.

A separate and perhaps more difficult problem is to determine when a particular count is a lesser included — that is, when it is impossible to commit the greater without committing the lesser (CPL 1.20, subd. 37). This inquiry is divided into two aspects. First, the appraisal of impossibility, which is not limited to analysis of the abstract statutory language defining the two offenses, but must be made on the basis of the criminal act of the accused under the theory of the case (see *e.g.*, *People v. Johnson*, 39 NY2d 364, 367). Second, an appraisal of the legislative intent in defining the two offenses — that is, whether the two offenses are "separately cognizable and statutorily proscribed wrongs" (*People v. Perez*, 45 NY2d 204, 210).

The second of these inquiries was the subject of discussion in the context of the determination of whether the lesser count should be submitted in the alternative. Justice Tonetti pointed out that where the lesser count is deemed to be a lesser included concurrent count ("inclusory concurrent count" CPL 300.30, subd. 4), the appropriate procedure is to submit the counts to the jury (assuming a proper evidentiary basis for such submission) in the alternative and a conviction of the greater is deemed a dismissal of the lesser (CPL 300.40, subd. 3 [b]). If the counts are non-inclusory concurrent counts, they would not be submitted in the alternative. With these rules in mind, he posed the question of how to treat a count charging possession of a weapon when submitting a count that charges Robbery in the First Degree based upon use of that weapon. The court may be required by the evidence in the case to charge the possession count as a lesser included concurrent count. But the possession count is at the same time a separate non-inclusory concurrent count (*People v. Perez*, 45 NY2d 204). Naturally, if the evidence does not justify submission of the possession count as a lesser included offense (CPL 300.50, subd. 1), there is no problem. The court would submit the robbery count and in its discretion could submit the possession count separately (*i.e.*, not in the alternative). CPL 300.40, subd. 3(a). But where the evidence does justify submission of the possession count as a lesser included concurrent count, if the jury returns a verdict on the robbery count, the possession count is deemed dismissed. CPL 300.40, subd. 3(b), 300.50, subd. 4. This would be inconsistent with the *Perez* rationale that conviction on the robbery count does not automatically result in dismissal of the possession count.

Apparently, in such a case, the jury must be instructed that if it finds the defendant guilty on the robbery charge, rather than just possession, it must go on to consider a verdict on possession as a separate count. This, opined Justice Tonetti, poses the problem of repugnant verdicts. The consensus of the groups as to this problem was that the judge should simply refuse to accept the verdict, point out to the jury that the verdict is logically defective and send the jury back. It also was stressed that if the judge senses there may be confusion he need not submit the possession as a non-inclusory concurrent count. CPL 300.40, subd. 3(a).

Pleas

The next subject discussed was whether an erroneous failure to suppress evidence can ever be deemed harmless error on an appeal of a conviction based upon a guilty plea. Justice Tonetti reviewed the reasoning of the Court of Appeals in *People v. Grant*, 45 NY2d 366, and noted that: (1) the Court of Appeals has never found the error to be harmless; and that (2) *Grant* followed this tradition even though the plea was taken after the People had rested at trial so that the Court had a record to review. In *Grant* the Court stated that the question is whether there is a reasonable possibility that the error contributed to the plea and that "an appellate court will rarely, if ever, be able to determine whether an erroneous denial of a motion to suppress contributed to the defendant's decision, unless at the time of the plea he states or reveals his reason for pleading guilty." 45 NY2d 366, 379-80.

Attention also was directed to the decision of the Second Department in *People v. Rolston*, 66 AD2d 617, *leave gnt'd*. 47 NY2d 1021, where the Court refused to distinguish the existing Court of Appeals precedents, which deal with confession suppression errors, from a situation involving failure to suppress physical evidence unlawfully seized. The Court, acknowledging that a rational argument could be made for such a distinction based upon the relative probative value of a confession vis-a-vis the physical evidence at issue in the present case, stated that the issue could not be resolved by "objective logic" because it hinged upon "the workings of a defendant's mind in deciding whether or not to plead guilty." 66 AD2d at 628.

Search and Seizure

I led the discussion on search and seizure. The first aspect discussed was detention on less than probable cause. Initially, it was noted that in *Delaware v. Prouse*, 99 S. Ct. 1391, 59 L. Ed. 2d 660, the Supreme Court resolved the conflicting views as to whether a whim stop of a motor vehicle violates the Fourth Amendment. Acknowledging that the state has a vital and compelling interest in highway safety, the Court nevertheless held that the discretionary spot check is not a sufficiently productive mechanism to justify the intrusion upon Fourth Amendment interests that such stops entail. Since the decision confirms the view articulated by our Court of Appeals more than four years ago in *People v. Ingle*, 36 NY2d 413, the *Prouse* case furnished no new material for discussion. I did, however, observe in passing that the Court did not rule out and specifically approved alternative methods, such as roadblock-type stops. The whim stop was condemned because it is totally lacking in an objective standard.

In *Delaware v. Prouse*, *supra*, the Court continued its approval of a balancing test in which the permissibility of a particular law-enforcement practice is judged by balancing its intrusion on the individual's Fourth Amendment interest against its promotion of legitimate governmental interests.

But in *Dunaway v. New York*, decided a few months later, 99 S. Ct. 2248, 60 L. Ed. 2d 824, the Court rejected use of a balancing test in judging any situation beyond that of a brief and narrowly circumscribed intrusion — an investigative stop of the type that consumes less than a minute and involves a brief question or two (99 S. Ct. 2248, 2255). Where the detention resembles an arrest, irrespective of whether the individual is formally arrested, there must be probable cause.

Thus, in *Dunaway*, the Court cut off the practice that had been developing in New York of judging detentions on a sliding scale that would permit use of criteria other than probable cause for a detention beyond the intensity of the *Terry* stop and frisk type. The balancing test applies to intrusions that are less intense, those that run from a request for information to stop and frisk (see *People v. De Bour*, 40 NY2d 210, 223, 225). There is no stage between the brief intrusion and arrest. The brief intrusion balancing test was first articulated in *Terry v. Ohio*, 392 US 1, as an exception to the probable cause requirement and remains an exception: it is not an integral part of probable cause rationale. The Court stated that "for all but those narrowly defined intrusions, the requisite 'balancing' has been performed in centuries of precedent and is embodied in the principle that seizures are 'reasonable' only if supported by probable cause." 99 S. Ct. at p. 2257.

> "A single, familiar standard is essential to guide police officers, who have only limited time and expertise to reflect on and balance the social and individual interests involved in the specific circumstances they confront." *Ibid.*

In *Dunaway* the Court was dealing with a confession obtained after waiver of *Miranda* rights by a fully warned defendant who had been taken to the stationhouse involuntarily for questioning. After rejecting the reasonableness of the detention on less than probable cause, the Court addressed the issue of attenuation. Rejecting any attempt to distinguish the case from *Brown v. Illinois*, 422 US 590, on the ameliorating factors that the police conduct here was not threatening or abusive and was highly protective of Fifth and Sixth Amendment rights, the Court opined that such factors bear upon the voluntariness of the confession and not upon the question of whether the confession was obtained through exploitation of a Fourth Amendment violation. The *Brown* factors, temporal proximity of arrest and confession, absence of intervening circumstances and purpose and flagrancy of the official misconduct all were present in this case. Most pointedly, from an analytical standpoint, the last of the three factors is judged by the *purpose* of the detention as well as the manner of detention and the offending factor in *Dunaway* as in *Brown* was that the detention was an expedition for evidence undertaken in the hope that something might turn up — it had a "quality of purposefulness." 99 S. Ct. 2248, 2259.

In the discussions that followed I pointed out that there still are serious unresolved problems involved in even the brief detention and interrogation. There are: (1) whether the detention can be against the will of the person detained; and (2) whether *Miranda* warnings are required. In *Dunaway* as well as in other recent cases (see *Brown v. Texas*, 99 S. Ct. 2637 and *Michigan v. DeFillippo*, 99 S. Ct. 2627, dissenting opinion of Mr. Justice Brennan in which Justices Marshall and Stevens concur) there are references to Mr. Justice White's concurring opinion in *Terry v. Ohio* which appear to indicate approval of the following procedure:

> "There is nothing in the Constitution which prevents a policeman from addressing questions to anyone on the streets. Absent special circumstances, the person approached may not be detained or frisked but may refuse to cooperate and go on his way. However, given the proper circumstances, such as those in this case [*Terry*], it seems to me the person may be briefly detained against his will while pertinent questions are directed to him. Of course, the person stopped is not obliged to answer, answers may not be compelled, and refusal to answer furnishes no basis for an arrest, although it may alert the officer to the need for continued observation." 392 US at 34 (quoted in footnote 12 of *Dunaway v. New York*, 99 S. Ct. 2248 and mentioned in footnote 3 of *Brown v. Texas*, 99 S. Ct. 2637, at 2641 and in the dissent in *Michigan v. DeFillipo*, 99 S. Ct. 2627, at 2636).

Apparently the Court will approve the use of force to effect a brief detention where the criterion for the detention (short of probable cause) is satisfied. Approval of detention against the will implies as much. However the question of whether *Miranda* warnings must be given at that point poses a more difficult issue. In *People v. Huffman*, 41 NY2d 29, the Court of Appeals drew a distinction between a single question designed to clarify the nature of the situation and interrogation designed to elicit a statement in an after-the-fact investigation. But whether this distinction will apply as a general rule is a close and difficult question.*

The next aspect of search and seizure discussed was the warrantless search of personalty. *People v. De Santis*, 46 NY2d 82, served as the focal point. There, a closely divided bench upheld the search of a suitcase seized from a defendant arrested on probable cause that the luggage contained a controlled substance. The majority relied upon two theories: (1) search of the person and the objects within his access incident to a lawful arrest to protect the safety of the officer and deprive the arrestee of any potential means of escape or of the ability to destroy evidence of the crime (*Chimel v. California*, 395 US 752); and (2) the fact that the arrest itself constitutes such a major intrusion into the privacy of the individual that the encroachment caused by a contemporaneous search of the arrestee and his possessions at hand is in reality *de minimus* (46 NY2d at 87).

The Court of Appeals observed that *United States v. Chadwick*, 433 US 1, was not applicable because there the Supreme Court was not dealing with a search that was

*Compare *People v. Harris* decided October 25, 1979, slip opinion, where the Court of Appeals held that a defendant detained and questioned about the identity of two companions (who fled when approached by the police) as well as about where a television set the two were carrying came from, should have been given *Miranda* warnings because he was not free to leave.

contemporaneous with an arrest. There, the Government had attempted to convince the Supreme Court that all movable personalty lawfully seized in a public place is fair game for warrantless search on probable cause and the *Chadwick* opinion rejects this attempt to extend the so-called "automobile exception" to the warrant requirement. The Supreme Court also rejected search incident to arrest as a justification in *Chadwick*, but it did so because the search there was remote in time and place from the arrest and there was no exigency.

I pointed out that one of the two underpinnings of *De Santis* may have been seriously eroded in the recent case of *Arkansas v. Sanders*, 99 S. Ct. 2586. While it must be stressed that the Court in *Sanders* specifically noted that it was not dealing with "the constitutionality of searches of luggage incident to the arrest of its possessor" (footnote 11, at p. 2593), the Court expressly rejected the argument that there is no constitutional difference between the intrusion on privacy resulting from a seizure of property and the intrusion on privacy resulting from a search of the seized property when dealing with items other than motor vehicles (*id.*, footnote 14, at p. 2594). This might well negate the second of the two bases of the *De Santis* rationale, unless the Supreme Court is somehow willing to draw a distinction based upon a reduced expectation of privacy stemming from the arrest itself. But there is strong indication that the Court would not do so in the case of possessions accompanying the arrestee as distinguished from those on his person (see *United States v. Chadwick*, 433 US 1, footnote 10 at p. 16). The rationale for examination of an arrestee's possessions is clear only so far as it relates to demonstrable exigency (protection of the officer, removal of means of escape, prevention of destruction of evidence). Our Court of Appeals itself has most cogently analyzed the fiction that inheres in the exigent circumstance rationale for routine search of luggage separated from an arrestee where both the luggage and the arrestee are under police control (*People v. Perel*, 34 NY2d 462, 466-7). Even if the Supreme Court were to continue to sustain searches of items in the *immediate control* of arrestees at the time of arrest, it is difficult in the face of *Sanders* and the footnote in *Chadwick*, *supra*, to find a rationale for search of an item once the item and the arrestee have been separated and both are under secure control. In *Sanders* the Court was dealing with a search of a suitcase that occurred when the taxi in which the defendant was riding was stopped on the street. The officers had probable cause to seize both the suitcase and the defendant when they stopped the taxi. The suitcase was in the trunk of the taxi and they opened it before making a formal arrest. Clearly the search was contemporaneous in time and place and based upon the facts of the case there is no warrant for making a distinction hinged upon whether formal arrest occurred before or after the search of the case. The basic factor that distinguishes *Sanders* from a search incident to an arrest is that the suitcase was not in the *immediate control* of the defendant when it was searched. There, of course, may well be considerations that require an on-the-spot search of luggage, and no iron-clad rule can be postulated. See *e.g.*, *United States v. Robinson*, 414 US 218; and *United States v. Chadwick*, *supra*, 433 US 1 at pp. 14-16. But all indications are that there must be some exigency for search without a warrant if the personalty has been separated from possession of the arrestee.

The third aspect of search and seizure discussed was the spontaneous, independent act attenuation that dissipates the taint of police unlawful seizure. *People v. Boodle*, 47 NY2d 398, was the case presented. In *Boodle* an unlawfully seized person who was being taken to a police station for questioning threw his hitherto concealed gun out of the window of the detective's car. In a prosecution for possession of the weapon, it was held that the defendant's act of throwing the gun from the car was not in direct response to the illegal police action, but rather was a spontaneous independent reaction.

In the discussions I used two similar cases to clarify the distinction between conduct that is the direct result of police action and conduct that is a spontaneous *independent* reaction. Both involved situations where plainclothes police unlawfully stopped persons in the street. In the first case, *People v. Cantor*, 36 NY2d 106, the defendant drew a gun before the police identified themselves and the gun was suppressed. In the second case, *People v. Townes*, 41 NY2d 97, the gun was drawn after the police identified themselves and the Court found it to be free and independent action. In *Townes*, the Court pointed out that the gun was not drawn because of police conduct but in spite of police conduct.

It was observed in considering both the *Boodle* and *Townes* cases that, curiously, if the defendant had waited until they were searched, the weapons would have been suppressed. It also was noted that in *Boodle* the Court thought it important to point out that the police illegality lacked any quality of purposefulness to uncover incriminating evidence against this defendant.

Next on search and seizure, we briefly noted *People v. Jackson*, 46 NY2d 171, where the Court interpreted CPL 410.50 as prohibiting a warrantless non-custodial search of a probationer by his probation officer. Here the Court, while adhering to its previously articulated opinion that probable cause in the case of a parole or probation officer must be judged in the light of reasonableness in the context of "the duty to supervise adherence to the conditions of probation or parole and the duty to influence the offender to refrain from unlawful conduct" (see *People v. Huntley*, 43 NY2d 175, 181), found that the probation officer had no indication of previous unreliability of the probationer and had acted on an anonymous tip. Thus, the search would have been unreasonable even in the absence of the statutory prohibition.

Lastly, we noted *People v. Havelka*, 45 NY2d 634, which places significant limits on the circumstances in which an appellate court may remit a suppression issue for a rehearing to give the People an opportunity to present additional evidence. The Court pointed out that the People had a full opportunity to present evidence and opined that a second hearing in such a case presents an unwarranted risk of tailored evidence — at least where the evidence would come from members of the same police department as distinguished from cases where the second hearing is for the purpose of determining the reliability of the basis for a message sent by another police department to the arresting agency. *CF.*, *People v. Lypka*, 36 NY2d 210; *People v. Horowitz*, 21 NY2d 55.

Presumptions; Newly Enacted Laws

In the closing moments Mr. Bellacosa made two observations about the recent Supreme Court decisions on presumptions and then listed some newly enacted legislation.

On presumptions, he advised the participants that *Kentucky v. Whorton*, 99 S. Ct. 2088, has no bearing on New York practice, because CPL 300.10 requires the court to instruct the jury on the presumption of innocence; and that extreme caution must be used in dealing with the weapon possession presumption under Penal Law 265.15 upheld in *Ulster Co. Court v. Allen*, 99 S. Ct. 2213, because legitimacy of the use of the presumption depends upon the facts and circumstances of each case.

ROLE OF THE TRIAL JUDGE

Professor Thomas F. Shea
St. John's University School of Law
Reporter

The 1979 Panel on the Role of the Trial Judge was chaired by Justice Lyman H. Smith with the able assistance of Justice Edward S. Conway and Professor Milton Gershenson of Brooklyn Law School.

The theme of the discussion was the ever-increasing responsibilities of the trial judge in view of the requirements of appellate courts, including the United States Supreme Court, in such areas as fair trial-free press collisions; conflicts of interest among jointly-tried criminal defendants and between parent-child civil parties; charges to criminal juries concerning their duty, if any, to convict after proof beyond a reasonable doubt; and judicial conduct which may create the appearance of impropriety.

Justice Lyman Smith opened the discussion by referring to an article entitled "The Unnecessarily Expanding Role of the American Trial Judge" by Stephen A. Saltzburg published in the Virginia Law Review in February, 1978. Justice Smith pointed out that unnecessary or not the expansion of that role was well exemplified by the topics which his panel would discuss.

Fair Trial — Free Press

(a) Press Access to Judicial Proceedings

Several important cases involving the Fair Trial — Free Press dichotomy were decided in 1979. I began the discussion of this topic by mentioning that the 1977 decision of the New York Court of Appeals in *Gannett Co., Inc. v. De Pasquale*, 43 N.Y.2d 370, had been accepted for review by the United States Supreme Court and that a decision was imminent. In *Gannett* the trial judge had, on the motion of the defendant, closed a confession-suppression hearing to the press and public on the ground that if the contents of the defendant's confession were to become known in the upstate community an impartial jury could not later be impaneled. The Court of Appeals affirmed, pointing out that the public's interest in access to judicial proceedings must be balanced against the defendant's right to a fair trial. On July 2, 1979, the United States Supreme Court also affirmed. (435 U.S. 1005) (5-4). The majority appeared to hold that the sixth amendment's guarantee of a public trial is for the benefit of the defendant alone and that the first amendment provides the press no right of access to pretrial proceedings. Even the dissenters agreed that in a proper case a suppression hearing may properly be closed to the press and public but contended that an insufficient justification therefor had been established in the instant case.

Subsequently the New York Court of Appeals, citing to the Supreme Court's opinion in *Gannet Co.*, affirmed the closing of a confession-suppression hearing involving a thirteen year old defendant where the hearing court had offered to furnish the press with transcripts redacted to exclude references to the as yet inadmissible statements of the defendant. *Matter of Merola v. Bell*, 47 N.Y.2d 985 (July 9, 1979). The Court of Appeals, however, disapproved of the trial court's staying of all proceedings while its closure order was being appealed, saying: "Only in rare situations, not present here, should a court stay trial proceedings to permit a challenge to rulings permitting the press and public to have redacted transcripts of pretrial suppression hearings."

More recently the Court of Appeals made clear that a motion to close a preliminary hearing to the press and public is not to be lightly granted. In *Matter of Westchester Rockland Newspapers, Inc. v. Leggett*, _____ N.Y.2d _____, N.Y.L.J., November 23, 1979, p. 1, col. 6, the court reversed an order closing a hearing on the competency of a defendant to stand trial and ordered the release of the hearing transcript. Judge Wachtler noted for the court that although the sixth amendment's public trial guarantee belongs only to the defendant, New York statutes provide a qualified right of access to the press and public. He stated that where a hearing involves the suppression of evidence the balance is more easily struck in favor of closure because the very purpose of the motion is to keep certain information evincing guilt from the trier of the facts. On the other hand, information as to competency to stand trial would ordinarily have little bearing on guilt or innocence. Judge Wachtler also explained the procedures to be followed by hearing courts in ruling on closure motions:

1. The motion must be made in open court;
2. The defendant has the burden of showing a strong likelihood of prejudice at his trial if the evidence should be disclosed to potential jurors;
3. Portions of the argument of the motion may, if necessary, be held *in camera*;
4. All proceedings must be recorded for appellate review; and
5. Where possible, the reasons for ordering closure shall be given in open court.

We also discussed *People v. Jones*, 47 N.Y.2nd 409 (1979), which involved the closing of a courtroom during an actual trial and over the objection of the defendant. The idea of excluding the press and public originated with the trial judge when it appeared that an undercover police officer was about to testify. However, it was later revealed that the officer was no longer operating in an undercover capacity and there were no pending cases in which he had so acted. In

reversing the conviction the Court of Appeals held that although the defendant's right to a public trial is not absolute the discretion to exclude should be sparingly exercised and then only after a careful inquiry, perhaps by evidentiary hearing, as to the underlying facts. The court added that a "public trial" violation amounts to a "fair trial" violation. Accordingly, prejudice need not be shown and the defect is "impervious to harmless error analysis." The United States Supreme Court denied certiorari on November 5, 1979.

(b) Newsman's Privilege

We began our consideration of this topic with the established principle that the first amendment does not require a newsman's privilege but that the states are free to create one. *Branzburg v. Hayes*, 408 U.S. 665 (1972). However, we noted that the New Jersey Supreme Court had recently held in *In re Farber*, 78 N.J. 259 (1978), that even where a shield law exists it may be struck down as violative of an accused's sixth amendment right "to have compulsory process for obtaining witnesses in his favor . . ." This line of approach, of course, raises a question concerning the validity in similar situations of other privileged communications. Comments from the judges in our discussion groups were that the other privileges (husband-wife, clergyman-penitent, physician-patient, attorney-client) were based on stronger public policy considerations and perhaps even had a constitutional basis of their own under the recently discerned "right of privacy." Further, one judge pointed out that all but the press privilege belong to the source who has imparted the confidential information. The newsman, on the other hand, is free to reveal the contents of the confidential communication and its source at any time. As a result the legislative concern for the secrecy of a communication to a newsman and the identity of its source appears to be minimal.

We also mentioned that the Second Department had determined that New York's press shield law applies to the daily and weekly press but not to the author of a book, *People v. Le Grand*, 67 A.D.2d 446 (2d Dep't 1979), and has also decided that the press has no right to be present at civil examinations before trial because they are not "sittings of courts." *Matter of Westchester Rockland Newspapers, Inc. v. Marbach*, 413 N.Y.S.2d 411 (2d Dep't 1979).

Conflict of Interest — Multiple Representation

Justice Smith led this discussion during which he commented on several cases involving alleged conflicts of interest among jointly represented criminal defendants prior to trial and at the trial itself.

In *Pirillo v. Takiff*, 341, A.2d 896 (Pa. 1975), the Supreme Court of Pennsylvania upheld on motion of the prosecution the disqualification of a single attorney who sought to represent twelve policemen who had been subpoenaed to testify before a grand jury investigating police corruption. The attorney was being paid by the fraternal order to which all the policemen belonged. The court feared that if one of the officers should decide to cooperate with the prosecution a clear conflict would result. The attorney countered that if such a situation developed he would promptly cease representing that officer. This did not satisfy the court because it felt that the immediate need to begin to pay for his own new counsel might chill the prospective witness and deprive the prosecution of his testimony. The court also noted that the attorney would never first broach the possibility of cooperation with any of his clients even if it might be in the best interests of some of them. Accordingly, the "substantial" public interest in the detection of crime was held to outweigh each defendant's right to be represented by the particular counsel of his own choosing.

A more finely-tuned approach was taken by the United States Court of Appeals for the Second Circuit in *In re Grand Jury Subpoena, (Taylor)* 567 F.2d 1183 (2nd Cir. 1977). There the government moved to have an attorney disqualified from representing one of three prospective defendants during their Grand Jury appearances on the ground that the particular prospective defendant would probably testify against the others after a grant of immunity. The appellate court reversed the disqualification order because the witness had not yet appeared before the Grand Jury, had not indicated any refusal to testify on self-incrimination grounds, and had not yet been offered immunity. Only then, said the court, would a question of conflict of interest be ripe for a hearing.

Justice Smith then considered *People v. Macerola*, 47 N.Y. 2d 257 (1979), a case involving joint representation of co-defendants at trial. During their trial neither defendant had objected to being represented by the same attorney. After conviction, however, each claimed that a conflict of interest between them had caused their joint representation to result in a denial of the effective assistance of counsel. The Court of Appeals agreed and reversed. First, the Court of Appeals found that a conflict had in fact existed. "To establish Macerola's defense to the assault charges it was necessary for counsel to attribute responsibility for the physical injuries to [co-defendant] Letko." Because of this, it was essential for the trial court, on its own motion and on the record, to have explained to the defendants the risks entailed by joint representation. Only then would a continued insistence by the clients on joint representation constitute a waiver of their constitutional rights. The court stated:

> "Thus, before the formal commencement of trial, it is the responsibility of the trial judge, independent of the attorney's obligation to inform his clients of any conflicting interests which may hinder his representation, to 'ascertain, on the record, whether each defendant [represented by the same attorney] has an awareness of the potential risks involved in that course and has knowingly chosen it.' "

Justice Smith completed his presentation by offering to make available to requesting judges a transcript of his questioning of jointly represented defendants in which he establishes the record needed to comply with *Macerola* and its forerunner, *People v. Gomberg*, 38 N.Y.2d 307 (1975).

Conflicts of Interest Between Parent and Child in Personal Injury Cases

Justice Edward Conway related his practice in dealing with civil cases in which a child has been injured while riding as a passenger in a car driven by his parent which is involved

in an accident with another vehicle. Too often the attorney retained by the parent is also asked to represent the child as a plaintiff in an action against the other driver. Justice Conway pointed out that the child may well have a cause of action against his own parent and so he advises the attorney for the father to disqualify himself from representing the child, and to recommend truly independent counsel for the child.

If Justice Conway's advice is not taken he is prepared to order the attorney disqualified. He also, on the record, appoints a guardian ad litem for the child with instructions to commence suit against the parent.

Justice Conway further advised that he refuses to approve early settlement of a child's cause of action for fear that the child's ultimate recovery against other defendants will be severely reduced.

The "Must-May" Controversy Concerning The Criminal Jury Charge

Professor Milton Gershenson opened the discussion here by asking the judges which charge they believed to be proper concerning a juror's duty, if any, to convict when he is convinced of the defendant's guilt of the crime charged beyond a reasonable doubt; more specifically, should the jurors be instructed that after proof beyond a reasonable doubt they:

1. "must" convict;
2. "have a duty to" convict;
3. "should" convict;
4. "shall" convict;
5. "are justified" in convicting, or
6. "may" convict?

Professor Gershenson called attention to language in the New York Court of Appeals' opinion in *People v. Crimmins*, 36 N.Y.2d 230, 242 (1975), which might be read to suggest that a juror has no obligation to render a verdict of guilty even if he is convinced of guilt beyond a reasonable doubt. In discussing whether certain erroneously admitted evidence was harmless, the *Crimmins* court stated: "Under our system of justice a jury is not commanded to return a verdict of guilty even in the face of apparently conclusive proof of the defendant's guilt. Similarly, it may and often does exercise a positive sense of moderating mercy."

Of course, the quoted language may also be interpreted to mean that a jury may not be directed to render a verdict of guilty simply because the trial judge believes the evidence is overwhelming.

Professor Gershenson asked if a consensus could be reached as to the best language to be employed. An overwhelming majority of the judges felt that the best instruction is phrased, "you *may* convict." These judges felt that a choice of "may" over "must" makes little practical difference as to the ultimate verdict and that where the question is open the safer course is to choose language more favorable to the defendant.

Professor Gershenson closed with the announcement that a revised set of recommended criminal jury charges could be obtained by calling his office at 212-UL 2-4257.

The Appearance of Impropriety in Judicial Conduct

Justice Conway reported on *Matter of Spector v. Judicial Commission*, 47 N.Y.2d 462 (June 5, 1979), which was decided just prior to the conference. In *Spector* the Court of Appeals sustained the New York State Commission on Judicial Conduct's "admonishment" of a Supreme Court Justice for conduct which, though free from actual impropriety, gave the "appearance of impropriety."

During a six-year period the Justice was found to have appointed the attorney-sons of two other Justices to guardianships and refereeships on twelve occasions while those Justices appointed his lawyer-son on thirteen occasions. He was also found to have been aware of the appointments of his son while he appointed their sons. Said the court: "[E]ven if it cannot be said that there is proof of the fact of disguised nepotism, an appearance of such impropriety is no less to be condemned than is the impropriety itself."

Judge Fuchsberg was the lone dissenter, contending that a newly developed sense of the appearance of impropriety was being retroactively applied.

Many of the judges in the discussion groups expressed concern that a concept as fluid as "appearance of impropriety" might be applied with so broad a brush as to interfere with the efficient operation of the courts or even deprive clients of effective counsel of their own choosing. For example, not only might it be deemed improper for a lawyer who had represented a judge in a personal matter, such as drawing his will or conveying his real property, ever to appear before that judge but every member of that lawyer's firm might be deemed to be similarly disqualified. In rural areas such a conclusion might severely restrict the ability of a firm to obtain legal work and therefore many lawyers would be reluctant to represent a judge in the first instance. In fact under such an approach an attorney who had represented a number of judges in a class action might subsequently find that he was no longer able to practice his profession.

The consensus of the judges was that an over-reaction to *Spector* should be avoided.

Chapter 6

Legislation and Rule Revision

The Office of Legislative Counsel to the Chief Administrative Judge is responsible for representing the interests of the judicial branch of government in the legislative process. It also acts as a liaison with the Governor's Office and the executive branch agencies, as well as with bar association committees, judicial associations and other groups, public and private, who sponsor legislation affecting the courts.

Counsel's Office, in conjunction with the Chief Administrator's advisory committees in civil, criminal and family law developed a 51-bill package for legislative action in the 1979 session. Thirty-one of these proposals passed the Legislature and were signed into law by the Governor. These measures included legislation providing for reciprocal discovery in civil actions, increased compensation of judges, the implementation of collective bargaining agreements negotiated between the unified court system and employee organizations and a variety of procedural and substantive changes in the State's civil, criminal and family laws.

Counsel's Office is also responsible for analyzing legislative proposals affecting the administration of the unified court system. Legislative memoranda were filed with appropriate legislative committees on 130 bills in 1979. The Counsel to the Governor was furnished with analyses and recommendations on 198 court-related measures awaiting executive action.

In addition, the legal staff frequently consults with the Governor's Office, individual legislators and committee staffs in the formulation of bills and policies affecting all aspects of the court system. This consultative role has increased significantly since the 1976 enactment of the Unified Court Budget Act and the 1978 constitutional restructuring of court administration in New York.

The following proposals sponsored by the Office of Court Administration were enacted into law in the 202nd legislative session:

Chapter 4 (Assembly Bill 1773). This measure implements collective bargaining agreements negotiated with CSEA and AFSCME with respect to nonjudicial employees in the statewide judiciary unit, in the units for the third through eighth judicial districts and in the city of Rochester. Eff. 4/1/78.

Chapter 49 (Senate Bill 1708-B). This measure amends section 39 of the Judiciary Law to establish the net local commitment of State budgeted courts and to set the reimbursement rate for localities at twenty-five percent for the 1979-80 fiscal year. Eff. 4/1/79.

Chapter 55 (Senate Bill 4662). This measure adds a new Article 7-B to the Judiciary Law, to provide increased compensation for judges and justices of the unified court system. Eff. 4/1/79.

Chapter 207 (Senate Bill 4201). This measure amends section 182 of the Judiciary Law to increase from one to two the number of county court judges in Steuben County. Eff. 1/1/80.

Chapter 308 (Assembly Bill 8290). This measure implements the recommendations of the fact-finding board in relation to an impasse in collective negotiations between the unified court system and the New York State Court Officers Association, the New York State Supreme Court Officers Association, the Court Clerks Benevolent Association and the New York State Court Clerks Association. Eff. 4/1/77.

Chapter 309 (Assembly Bill 8225-B). This measure implements the collective bargaining agreement negotiated by the unified court system and District Council 37 of AFSCME. Eff. 10/1/77.

Chapter 310 (Senate Bill 6362). This measure implements the collective bargaining agreement negotiated by the unified court system and Local 650 of AFSCME. Eff. 10/1/77.

Chapter 311 (Senate Bill 6281). This measure amends chapter 4 of the Laws of 1979 to implement the collective bargaining agreements negotiated by the unified court system and CSEA, relative to nonjudicial employees in the cities of Mount Vernon, Peekskill, and White Plains. Eff. 4/1/78.

Chapter 312 (Senate Bill 6400). This measure provides the 1979-80 supplemental budget for the Legislature and the unified court system, including the appropriation for reclassification. Eff. 6/28/79.

Chapter 454 (Senate Bill 806). This measure amends the Oneida City Charter to abolish the justice court of Oneida and to designate the acting city judge as the assistant city judge. Eff. 8/4/79.

Chapter 484 (Senate Bill 5287). This measure abolishes the recorder's court in the city of Johnstown. Eff. 8/4/79.

Chapter 726 (Assembly Bill 8297). This measure implements legislative resolution of the impasse in collective negotiations between the unified court system and the Association of Surrogates and Supreme Court Reporters within the City of New York. Eff. 4/1/79.

Chapter 73 (Senate Bill 2200). This measure amends section 758-a of the Family Court Act to require the Department of Social Services to supervise the operation of restitution programs, rather than the courts and the Office of Court Administration. Eff. 7/28/79.

Chapter 74 (Senate Bill 2436). This measure amends CPL 450.62(2) to require that an appeal from a judgment, sentence or order of a county court must be taken to the appellate division of the department in which the judgment, sentence or order is entered. Eff. 1/1/80.

Chapter 80 (Senate Bill 334). This measure amends CPLR 3122 to increase from 5 to 10 days the time within which a party may serve a notice of motion for a protective order. Eff. 9/1/79.

Chapter 106 (Senate Bill 740). This measure amends section 525 of the Family Court Act to increase from 7 to 8 the minimum number of days allowed between service of summons and petition in a paternity proceeding and the stated appearance date. Eff. 5/21/79.

Chapter 119 (Senate Bill 3745). This measure amends CPLR 5301 to clarify that the Ryukyu Islands are a "foreign state" for the purposes of the recognition of foreign country money judgments. Eff. 1/1/80.

Chapter 120 (Senate Bill 3743). This measure amends CPLR 5520 to permit a court to grant an extension of time to cure an omission in a notice of motion for permission to appeal. Eff. 1/1/80.

Chapter 121 (Senate Bill 2201). This measure amends section 235 of the Domestic Relations Law to permit public access to matrimonial records older than 100 years. Eff. 1/1/80.

Chapter 122 (Senate Bill 2202). This measure amends section 235 of the Domestic Relations Law to permit a party's current attorney to obtain copies of the papers of a client's matrimonial action. Eff. 5/21/79.

Chapter 177 (Senate Bill 3744). This measure renumbers CPLR 8011-a to be §8011-b. Eff. 1/1/80.

Chapter 191 (Assembly bill 5723). This measure amends CPLR 316 to increase from 20 to 30 the number of days within which the summons must be published pursuant to an order of publication. Eff. 1/1/80.

Chapter 216 (Assembly Bill 3682). This measure amends CPL 170.40 and 210.40 to establish standards for the dismissal of an accusatory instrument in the interests of justice. Eff. 1/1/80.

Chapter 218 (Assembly Bill 4369-A). This measure amends CPL 530.20 to permit a local criminal court, under limited circumstances, to order recognizance or bail for a defendant without a report from the Division of Criminal Justice Services or a police department. Eff. 1/1/80.

Chapter 239 (Assembly Bill 5725-A). This measure amends CPLR 5519 to clarify the existing provisions providing for a continuation of a stay pending the disposition of an appeal or motion for permission to appeal. Eff. 1/1/80.

Chapter 268 (Assembly Bill 5726). This measure amends CPLR 3101 and 3117 to permit a party to depose a person authorized to practice medicine who is an expert witness of that party, or who has provided medical care, and to permit the use of this deposition without a showing of unavailability or special circumstances. Eff. 1/1/80.

Chapter 404 (Senate Bill 3748-A). This measure amends CPLR 203 to provide for the tolling of the statute of limitations by delivery of the summons to the sheriff of a county outside New York City and to a county clerk within the City of New York. 1/1/80.

Chapter 412 (Senate Bill 6163). This measure repeals CPL article 240 and adds a new article 240 to broaden the scope of discovery by permitting the prosecution and defense to obtain routine material upon demand. Eff. 1/1/80.

Chapter 651 (Assembly Bill 4371). This measure amends CPL 450.90 and 470.40 to authorize the Court of Appeals to determine the appealability of an intermediate appellate court's reversal or modification of a criminal court judgment and to permit the Court of Appeals to remit a criminal case to an intermediate appellate court when established facts were applied to an erroneous determination of law. Eff. 1/1/80.

Chapter 312 (Senate Bill 6400). Incorporates the 1977 provision for additional compensation to certain judges who are temporarily assigned to the supreme court in a new section 223 of new Article 7-B of the Judiciary Law.

Chapter 738 (S.24). Implements recommendations of a fact-finding board, appointed pursuant to the provisions of Article Fourteen of the Civil Service Law, in relation to an impasse in collective negotiations between the unified court system and the Law Assistants Association of the City of New York.

In the area of rules, there were a variety of major regulatory developments in 1979. Pursuant to the constitutional and statutory authority granted to the Chief Administrator of the Courts (N.Y. Const., Art. VI, §28; L.1978, chap. 156), a statewide note of issue and certificate of readiness rule was promulgated on April 1, 1979 to make uniform the procedure and form employed to place an action or special proceeding upon any trial calendar. [22 NYCRR, Part 3]. It is anticipated that this measure will be the first of many regulations designed to establish uniformity in civil practice.

In addition, requirements for a modern recordkeeping system in town and village courts were promulgated by the Chief Administrator, effective April 2, 1979. [22 NYCRR, Part 4].

In the area of arraignments, the Chief Administrator established a rule authorizing the use of electronic equipment to arraign defendants in criminal courts within Suffolk County. [22 NYCRR, Part 5]. The rule requires the consent of both the district attorney and the defendant's counsel, as well as a determination by the arraigning court that the

personal appearance of the defendant is likely to result in an unreasonable delay.

Rules for the extension of arbitration, in civil actions for $6,000 or less, exclusive of costs and interest, were promulgated by the Chief Judge of the Court of Appeals after consultation with the Administrative Board and with the approval of the Court of Appeals. [22 NYCRR, Part 28]. The extension of judicial arbitration is part of the plan of Chief Judge Cooke to speed disposition of civil cases.

The Chief Judge also promulgated administrative standards, developed in consultation with the Administrative Board and with the approval of the Court of Appeals, to comply with the requirements of sections 243 and 246 of the Family Court Act. The purpose of these standards is to regulate the designation of lawyers, who may be appointed as law guardians to represent minors in Family Court proceedings, by enunciating statewide criteria for panel plans.

The Appellate Divisions for each judicial department adopted joint rules requiring the filing by an attorney in every adoption proceeding of an affidavit disclosing fees or compensation received or given by the attorney in connection with the adoption. The affidavit must be filed in the adoption proceeding and with the Office of Court Administration. [22 NYCRR §§603.23, 691.23, 806.13 1022.32].

The four Appellate Divisions also adopted rules requiring attorneys who reside or maintain an office in this State to file a registration statement with the Office of Court Administration by June 1, 1979 and every two calendar years thereafter within 30 days after the attorney's birthday [22 NYCRR, Parts 609, 696, 807, 1021].

STATE OF NEW YORK

The
Judicial Conference
and the Chief Administrator
of the Courts
of the
State of New York

Report to the 1980 Legislature in Relation to Civil Practice in the Courts

January 24, 1980

Letter of Transmittal

TO: The Legislature of the State of New York

Pursuant to Chapter 156 of the Laws of 1978, the Judicial Conference and the Chief Administrator of the Courts of the State of New York respectfully submit to the 1980 Legislature:

The 18th Annual Report of the Judicial Conference and the Chief Administrator of the Courts to the Legislature, adopted January 24, 1980, which incorporates, as modified, the 17th Annual Report by the Advisory Committee on Civil Practice.

January 24, 1980.

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Introduction

The name of the Committee was changed and simplified in 1979. It had been officially named the "Committee to Advise and Consult with the Judicial Conference and the Chief Administrator of the Courts on the CPLR". The reference to only the CPLR was somewhat misleading because the Committee had also been called upon periodically to address procedural changes in other laws, and continues to be. Early in 1979, Chief Administrative Judge Herbert B. Evans officially redesignated the Committee as the

Advisory Committee on Civil Practice

and it is under that title that the Committee submits this, its 1980 Report to the Judicial Conference and the Chief Administrator.

During 1979 two new appointments were made to the Committee: Professor Paul S. Graziano of St. John's University School of Law and James J. Harrington, Esq., of the New York City firm of Lester, Schwab, Katz and Dwyer. Because of extended commitments, Peter H. Kaminer and Harold A. Meriam resigned from the Committee. We are in their debt for their services to the Committee and regret that they cannot continue with us.

The present members of the Committee are: David D. Siegel (chairman), William D. Eggers, John T. Frizzell, Hyman W. Gamso, Paul S. Graziano, Robert T. Greig, Raymond D. Hackbarth, James J. Harrington, Edward J. Hart, Richard B. Long, Joseph M. McLaughlin, and John A. Murray.

There are three parts to our Report.

Part I briefly discusses the disposition of the Committee's 1979 proposals and submissions.

Part II sets forth the Committee's 1980 recommendations with explanatory notes.

Part III summarizes the Committee's ongoing projects and tentative plans for future study and review.

A large part of the Committee's labors occurs during the Legislature's session, when the Committee's meetings are preempted by a parade of bills submitted to it by the Legislature and by the Governor's office for review and comment. No endeavor is made in this report to enumerate those bills.

The Committee wishes to acknowledge the continuous aid and assistance of its Counsel, William A. Bulman, Jr. and John P. Brosnan of the Office of Court Administration.

Part I — Disposition of 1979 Recommendations

1. CPLR 203(b) (5).

The change recommended in this provision appears at page 10 of the Committee's original 1979 Report with explanatory background appearing through page 12.

Without duplicating the discussion set forth in the 1979 Report, we note the gist of this amendment: that when the defendant's contacts are with a county in New York City, the limitations extension for which CPLR 203(b) (5) now provides is obtained, not by delivering the summons to the sheriff, but by filing it with the county clerk. Outside New York City, delivery to the sheriff continues to be the step that obtains the extension.

The change was adopted in 1979 and became effective January 1, 1980.

2. CPLR 316(c).

The amendment of this provision provides that the first publication of the summons, when service by publication is ordered, shall be made within 30 days after the granting of the order, a change from the previously required 20.

The amendment was adopted in 1979 and became effective January 1, 1980.

3. CPLR 3101(a) (3); CPLR 3117(a) (4).

These amendments are discussed at pages 26-29 of the 1979 Report. Both were adopted in 1979.

The key accomplishment here is the CPLR 3101(a) (3) amendment. It authorizes a party to depose his or her own physician, thus setting the stage for such physician's testimony to be used at the trial through the deposition instead of in person. Only a treating physician, or one who is to be called as an expert at the trial, is deposable under this addition, and only at the behest of the party the physician treated or in whose behalf the physician is to testify. The advantages of this procedure are discussed in the 1979 Report.

4. CPLR 3122.

The 1979 proposal extends from 5 to 10 days the period a party has, after being served with a discovery notice (CPLR 3120) or physical or mental examination notice (CPLR 3121), in which to oppose it with a motion for a protective order. The proposal is discussed at pages 30-31 of the 1979 Report.

It was adopted in 1979.

5. CPLR 5301(a).

This provision is concerned with the recognition of foreign judgments and defines a foreign state to exclude certain territories and affiliations of the United States. The Ryukyu Islands, having been returned to Japan, no longer qualify for such an exclusion. The 1979 amendment struck the reference to those islands.

The Legislature, after a great absence of debate, adopted the amendment. The result was to obliterate the only mention ever made of the Ryukyu Islands in the CPLR. It was a sad moment for us all.

6. CPLR 5519(e).

The proposal in respect of CPLR 5519(e), which supplies continuations for stays on appeal, is discussed at pages 34-36 of the 1979 Report.

The proposal was adopted in 1979 and became effective January 1, 1980. The amendment answers several questions left open under the prior provision, and elaborates in terms the applicability of the provision to appeals requiring permission as well as to appeals taken of right.

7. CPLR 5520 (a).

The proposal clarifies that CPLR 5520 (a), which seeks to cure certain omissions in the initial steps of an appeal, applies to both the permission to appeal and the appeal taken of right. It is discussed at pages 37-38 of the 1979 Report.

The proposal was adopted in 1979 and became effective on January 1, 1980.

8. Proposals Not Adopted.

Three of the Committee's recommendations were not adopted in 1979. One of these is being resubmitted. It is the amendment of CPLR 308 and 3215 (e) and (f), contained as Item 1 in Part II of this Report. Discussion of that item appears there.

Defeated in 1979 was a proposal to repeal CPLR 2216, which governs default situations on motions. This proposal is discussed at pages 24-25 of the 1979 Report. It was resisted in several quarters, each apparently content with local motion practice and concerned that the repeal of CPLR 2216 would alter local practice. The Committee has decided not to resubmit it in 1980, in deference to existing local practices, with which CPLR 2216 is apparently felt to be compatible.

An amendment to CPLR 1104 was not resubmitted.

Part II — 1980 Recommendations*

1. CPLR 308; CPLR 3215 (e), (f).

The Committee recommends the repeal of the last paragraph (the paragraph which carries no number) of CPLR 308, treating of additional notice in certain cases before a default judgment is taken, and the transfer of the substance of the provision, expanded and clarified, into CPLR 3215.

*NOTE: Contained here are only those additions and amendments initiated by the Committee, or acted upon by the Committee after outside request. Committee input lies behind other bills, usually in a consultative capacity, and in several instances the chairman has redrafted bills on procedural subjects at the behest of individual legislators after a review of such bills revealed flaws.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to additional notice of default judgment in an action arising out of a consumer credit transaction and to repeal certain provisions thereof relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The last unnumbered paragraph of section three hundred eight of the civil practice law and rules is REPEALED.

§2. Subdivision (e) of section thirty two hundred fifteen of such law and rules, as amended by chapter three hundred forty-four of the laws of nineteen hundred seventy-seven, is amended to read as follows:

(e) Proof. On any application for judgment by default, the applicant shall file proof of service of the summons and the complaint, or a summons and notice served pursuant to subdivision (b) of rule 305 or subdivision (a) of rule 316, and proof by affidavit made by the party of the facts constituting the claim, the default and the amount due. Where a verified complaint has been served it may be used as the affidavit of the facts constituting the claim and the amount due; in such case, an affidavit as to the default shall be made by the party or his attorney. When jurisdiction is based on an attachment of property, the affidavit must state that an order of attachment granted in the action has been levied on the property of the defendant, describe the property and state its value. Proof of mailing the notice required by [section three hundred eight of the civil practice law and rules] *subdivision (f), where applicable,* shall also be filed [where such notice is required].

§3. Subdivision (f) of section thirty-two hundred fifteen of such law and rules, as amended by chapter seven hundred twenty of the laws of nineteen hundred sixty-eight, is amended by adding a new paragraph three to read as follows:

3. (i) When a default judgment is sought against a natural person in an action arising out of a consumer credit transaction, as defined in section 105, and such person has not appeared in the action, additional notice must be given by or in behalf of the plaintiff, at least twenty days before the entry of such judgment, by mailing a copy of the summons by first-class mail to the defendant at his place of residence in an envelope bearing the legend "personal and confidential" and not indicating on the outside of the envelope that the communication is from an attorney or concerns an alleged debt. In the event such mailing is returned as undeliverable by the post office before the entry of a default judgment, or if the place of residence of the defendant is unknown, a copy of the summons shall then be so mailed to the defendant at the defendant's place of employment, if known, and if neither the place of residence nor the place of employment of the defendant is known, then to the defendant at his last known residence or employment address.

(ii) The additional notice may be mailed simultaneously with or after service of the summons on the defendant. An affidavit of mailing pursuant to this paragraph shall be executed by the person mailing the notice and shall be filed with the judgment. Where there has been compliance with the requirements of this paragraph, nonreceipt of the additional notice by the defendant shall not preclude the entry of the default judgment.

(iii) This requirement shall not apply to cases in the small claims part of any court or to summary proceedings to recover possession of real property or to actions affecting title to real property.

§4. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

This proposal would repeal the unnumbered last paragraph of CPLR 308 and transfer its contents to CPLR 3215 (f) as a paragraph 3. The amendment relates to additional notice, mailed notice, before a default judgment can be taken against a natural person. Since the purpose of this provision is solely to assure that an additional notice will be given to the defendant before a default judgment may be taken against him or her, the proper place for it is in the default judgment provision, which is CPLR 3215. Placed as it was in CPLR 308, the CPLR's basic provision on summons service, it has had to be read innumerable times, unnecessarily, by attorneys interested only in summons service.

The proposal was submitted in 1979 and is discussed at greater length in the 1979 Report at pages 15-16. There was no opposition in principle to this proposal at the 1979 legislative session, but last minute changes in language, now adopted and embodied in the above drafts, resulted in a delay which prevented the proposal's adoption at that session.

2. CPLR 321(b).

The Committee recommends the amendment of CPLR 321(b), relating to a change of attorney, to supply a mere motion procedure when the change cannot be effected by consent.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to the withdrawal of an attorney in a pending action

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

NOTE. — The last undesignated paragraph of CPLR 308, to be repealed by this bill, relates to the additional notice required to take a default judgment in an action against a natural person based upon nonpayment of a contractual obligation. New proposed paragraph 3 of subdivision (f) of CPLR 3215 governs the additional notice requirement in consumer credit transactions, and supersedes the repealed provision.

Section 1. Subdivision (b) of section three hundred twenty-one of the civil practice law and rules, as amended by chapter five hundred eleven of the laws of nineteen hundred sixty-four, is hereby amended to read as follows:

(b) Change *or withdrawal* of attorney. [An attorney of record may be changed by court order or, unless] *1. Unless* the party is a person specified in section 1201, *an attorney of record may be changed* by filing with the clerk a consent to the change signed by the retiring attorney and signed and acknowledged by the party. Notice of such change of attorney shall be given to the [attorney] *attorneys* for all parties in the action or, if a party appears without an attorney, to the party.

2. An attorney of record may withdraw or be changed by order of the court in which the action is pending, upon motion on such notice to such persons as the court may direct.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The present subdivision (b) of CPLR 321 provides for a change of attorney by the filing of an appropriate consent, and, when consent is lacking, by court order. Some courts have not permitted a mere motion to be used to obtain the order, but have required that a formal special proceeding be brought under Article 4 of the CPLR. In either instance the question of whom to notify of the motion or special proceeding is not addressed.

The Committee proposes to divide the present subdivision (b) into two paragraphs. The first, paragraph 1, would cover the change of attorney by consent and would make mere linguistic adjustments to set the provision up as a separate paragraph.

The gist of the Committee's proposal is in the addition of paragraph 2. This one addresses the change of attorney requiring court permission because consent has not been forthcoming. The provision sets forth that the procedure for the change shall be a mere motion, thus clarifying that a special proceeding need not be brought for this purpose. And rather than attempt to set forth whom to notify, the amendment leaves it to the court to determine. It does this by requiring the motion to be "on such notice to such persons as the court may direct", i.e., it contemplates the procedure of an order to show cause. This will enable the court to determine, on a case by case basis, who shall be notified, and how. There may be many parties, and the action may have been quiescent for a time. Leaving it to the court to determine whom to notify, and by what method, permits the factors applicable to the individual case to be weighed. One obvious person to notify is of course the client, and it is contemplated that the client will be among those notified. The method of notification, however, in respect of the client as well as all others who are to receive notice, is left to the court. The person making the motion would always do well to advise the court, in affidavits accompanying the applica-

tion for the order to show cause, of all factors pertaining to the giving of notice.

3. CPLR 2215.

The Committee proposes to amend CPLR 2215 to require that a party who has been moved against, and who wishes to make his own application for relief by way of a cross-motion, specifically serve on the movant a "cross-motion" notice.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to relief demanded on motion by other than moving party

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Rule twenty-two hundred fifteen of the civil practice law and rules is amended to read as follows:

Rule 2215. Relief demanded by other than moving party. At least three days prior to the time at which the motion is noticed to be heard, a party may serve upon the moving party a notice *of cross-motion* demanding relief, with or without supporting papers. Relief in the alternative or of several different types may be demanded; relief need not be responsive to that demanded by the moving party.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The problem that has been brought to the Committee's attention is that sometimes, when X has made a motion against Y, Y will intermingle somewhere in his opposing papers, all presumably designed only to oppose X's motion, a demand for affirmative relief. This demand may crop up at some belated and unexpected point in the opposing papers, and thus take the moving party by surprise. It can also add unnecessary chores for the motion judge who meets the demand for cross-relief only in the middle of his reading of the opposing papers.

The Committee hopes that the brief amendment proposed above, merely adding the words "of cross-motion" to CPLR 2215, will encourage the practice, by a lawyer seeking cross-relief, of leading off his opposing papers with a formal "notice of cross-motion", thus enabling all readers to discern at the very outset that he is seeking affirmative relief and not merely opposing the movant's demand for relief. It would not be a bad practice for such a cross-movant to recite, in the notice of cross-motion, that the accompanying affidavits or other proof are intended to carry out the dual mission of opposing the main motion and also supporting the demand in the cross-motion. If there are several affidavits, some designed for opposition and others only for the cross-relief, the covering notice of cross-motion could identify the accompanying affidavits and their respective missions.

The main idea is to have the covering paper clue the reader in to the whole mission of the accompanying papers, and to avoid the situation in which a demand for cross-relief comes up as almost a hidden incident of affidavits opposing the main motion.

The inclusion of a general relief clause, with which a notice of motion ordinarily ends in New York practice, will still cover other items of relief reasonably supportable on the papers, and a general relief clause may also be used in the notice of cross-motion.

The proposal is intended to clarify the obligations of a cross-movant. It is not intended to place any restriction on the court's powers to grant affirmative relief.

4. CPLR 3101(a) (3); CPLR 3117(a) (4).

The Committee recommends the amendment of both of these provisions to change the category of persons "authorized to practice medicine" to the broader category of persons "licensed to render health care or diagnostic services".

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to the deposition of a person licensed to render health care or diagnostic services

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph three of subdivision (a) of section thirty-one hundred one of the civil practice law and rules, as amended by chapter two hundred sixty-eight of the laws of nineteen hundred seventy-nine, is hereby amended to read as follows:

(3) a person about to depart from the state, or without the state, or residing at a greater distance from the place of trial than one hundred miles, or so sick or infirm as to afford reasonable grounds of belief that he will not be able to attend the trial, or a person [authorized to practice medicine who has provided medical care or diagnosis to the party demanding disclosure,] *licensed to render health care or diagnostic services who has provided such care or services to the party demanding disclosure* or who has been retained by [him] *such party* as an expert witness; and

§2. Paragraph 4 of subdivision (a) of rule 3117 of such law and rules, as amended by chapter two hundred sixty-eight of the laws of nineteen hundred seventy-nine, is hereby amended to read as follows:

4. the deposition of a person [authorized to practice medicine] *licensed to render health care or diagnostic services* may be used by any party without the necessity of showing unavailability or special circumstances, subject to the right of any party to move pursuant to section 3103 to prevent abuse.

§3. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

Both CPLR 3101(a) (3) and 3117(a) (4) were amended in 1979 to authorize (inter alia) the taking and use of deposition of "a person authorized to practice medicine". Item 3 in Part I of this Report refers to those 1979 amendments. It has now been proposed to the Committee, and the Committee has agreed to the proposal, that the category of persons subject to deposition under those amendments be expanded.

The 1979 language limits the amendments to physicians. The present proposal expands the list to embrace all persons licensed to administer any phase of "health care or diagnostic services". The licensing occurs under the Education Law, and all licensees thereunder who function in any phase of what the courts can reasonably deem the "health" or "diagnostic" realm can be fitted under the expanded deposition category.

The original purpose of these amendments was to facilitate the testimony of doctors at the trial, not only for their own convenience and in recognition of their own important and pressured duties, but for the added convenience of the courts and the litigants as well. Trial attorneys can all attest to the difficulty of coordinating expert testimony in general and medical testimony in particular. The same motivations govern the proposed expansion of these provisions to embrace the whole range of the health establishment.

The deposing is at the option of the party who was treated or diagnosed, or who plans to retain the medical person as an expert. The option can be foregone; the party may simply call the witness at the trial. Indeed, the deposition can be taken and then not actually used, the party electing instead to have the witness testify live at the trial (the deposition thereupon standing by with a potential impeachment use, of course). Though those possibilities exist, the fact that the deposition can be made to stand in for the medical witness at the trial convinces the Committee of the proposal's merit.

5. CPLR 5250; CPLR 3222(b) (1); CPLR 6001.

The Committee proposes to repeal CPLR 5250, to abolish the remedy of arrest for which it provides in connection with the enforcement of money judgments, and to amend the other two provisions to strike their reference to the order of civil arrest, a remedy abolished from civil practice in 1979.

Recommendation

AN ACT

To amend the civil practice law and rules in relation to arrest

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fifty-two hundred fifty of the civil practice law and rules, is REPEALED.

§2. Paragraph one of subdivision (b) of rule thirty-two hundred twenty-two of such law and rules is amended to read as follows:

1. an order of [arrest or] attachment or a preliminary injunction shall not be granted;

§3. Section sixty hundred one of such law and rules is amended to read as follows:

§6001. Kinds of provisional remedies; when remedy available to defendant. The provisional remedies are [arrest,] attachment, injunction, receivership and notice of pendency. On a motion for a provisional remedy, the plaintiff shall state whether any other provisional remedy has been secured or sought in the same action against the same defendant, and the court may require the plaintiff to elect between those remedies to which he would otherwise be entitled; for this purpose, seizure of a chattel in an action to recover a chattel is a provisional remedy. A cause of action contained in a counterclaim or a cross-claim, and a judgment demanded thereon, shall entitle the defendant to the same provisional remedies to which he would be entitled if he were the plaintiff, the party against whom the judgment is demanded were the defendant and the cause of action were contained in a complaint.

§4. This act shall take effect immediately.

NOTE: CPLR 5250, proposed to be repealed, relates to the arrest of judgment debtors.

Comment

The Legislature abolished the provisional remedy of civil arrest in 1979. This it did by repealing Article 61 of the CPLR, which supplied the remedy.

Since the remedy of civil arrest in connection with the enforcement of a money judgment, which is found in CPLR 5250, is analogous to the abolished provisional remedy, similar policy considerations may be cited to support repeal of the CPLR 5250 arrest. Moreover, its repeal would probably go unnoticed, since a CPLR 5250 arrest is rarely if ever sought, much less granted. A perusal of CPLR 5250 in the McKinney's volume reveals no activity at all on the provision.

The amendments of CPLR 3222(b) (1) and CPLR 6001 are merely to recognize the 1979 repeal of the provisional

remedy of civil arrest. CPLR 3222(b) (1), governing the submission on agreed facts (a procedure which dispenses with summons service and other adversary proceedings), makes certain provisional remedies unavailable. Arrest was among them, but since arrest no longer exists as a remedy it is idle to refer to it.

CPLR 6001 lists the official provisional remedies. It still refers to arrest. The amendment would strike the reference.

6. CPLR 5601(a).

The Committee recommends that the jurisdiction of the Court of Appeals in instances of appeals taken as of right be curtailed, thus enabling the Court to take more appeals by permission, a statistical study of the Court having demonstrated that the percentage of reversals (which confirm the merit of the appeal) in cases appealed by leave is dramatically higher than in cases appealed of right.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to appeals to the court of appeals as of right

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section fifty-six hundred one of the civil practice law and rules, as amended by chapter ninety-five of the laws of nineteen hundred seventy-three, is amended to read as follows:

(a) [Dissent, reversal or modification] *Dissent by two justices*. An appeal may be taken to the court of appeals as of right in an action originating in the supreme court, a county court, a surrogate's court, the family court, the court of claims or an administrative agency, from an order of the appellate division which finally determines the action, where [(i) there is a] *two justices* dissent on a question of law in favor of the party taking such appeal [, or (ii) such order directs a reversal of the judgment or order appealed from, or (iii) such order directs a modification thereof in a substantial respect, which is within the power of the court of appeals to review on such appeal, and the party taking the appeal is aggrieved by the modification].

§2. This act shall apply to every notice of appeal to the court of appeals otherwise timely served within the particular action or proceeding, which is served on or after the effective date of this act.

§3. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

This amendment is sought by the Court of Appeals and is recommended by the Office of Court Administration and the Advisory Committee on Civil Practice.

The amendment would narrow the existing bases for appeal as of right only under subdivision (a) of section 5601 of the CPLR and by implication subdivision (d) of that section. Thus, appeals as of right from final orders involving reversals, modifications and dissents are preserved except that in all those categories there would have to be at least two dissenting votes at the Appellate Division. Of course, all such matters not appealable as of right would be subject to appeal by permission of either the Appellate Division or the Court of Appeals (CPLR 5602).

This change is needed to permit the Court of Appeals to deal more effectively with its burgeoning workload, to ensure the currency of its calendar, to permit more time and opportunity for deliberation and for writing opinions on those appeals which are highly significant, and to grant more applications for leave to appeal in cases of truly statewide importance and significance.

In the five-year period between 1973 and 1978 the total caseload of the Court of Appeals increased 57.3 percent. Total cases disposed of in 1973 were 1,947; the total for 1978 was 3,040.

In 1978, of the total number of civil appeals heard by the Court of Appeals, 312 came to the Court as of right solely because of a reversal or modification by an Appellate Division or because of the dissent of a single justice in the Appellate Division. Twenty-nine cases involved an appeal as of right based upon a constitutional issue and only 106 cases were heard by the Court of Appeals by grant of a motion for permission.

The statistical analysis of the work of the Court indicates overwhelmingly that the general quality of the appeals that reach the Court of Appeals by leave are much higher than the appeals mandated as of right. For example, the Court of Appeals affirmed 71 percent of the orders appealed as of right under provisions of CPLR 5601(a), and 82 percent of those appealed as of right because of a constitutional question. In contrast, the Court affirmed only 51 percent of orders appealed by leave of the Court of Appeals and 58 percent of orders appealed by leave of the Appellate Division. This clearly indicates the urgency of enabling the Court of Appeals to grant leave to appeal in more deserving civil cases without being overwhelmed by numerous less meritorious appeals as of right. Such determination and control of its own docket is, by and large, the national rule for courts of last resort and there is no sound reason for New York to be a minority exception to this sound jurisprudential practice.

Deeper analysis of the appeals heard by the Court of Appeals indicates that by volume, the least meritorious appeals as of right, other than those where a constitutional question is raised, are those involving reversals and modifications. In cases where the Appellate Division reversed a trial court, the Court of Appeals affirmed 75 percent of the time in 1978. This is understandable because often the Appellate Division unanimously corrects a clear error in law by the trial court and there is no point in mandating further appeal. Yet, under present law, the Court of Appeals is required to consider such matters. Thus, errors by the trial court, fully remedied by the Appellate Division, are allowed to dominate the calendar of the State's highest court. The

Court of Appeals in 1978 also affirmed 70 percent of all cases where the Appellate Division modified an order or judgment of a trial court.

Appeals as of right based on the presence of a dissent are of a lower quality, by volume, than appeals by leave. The Court of Appeals, for example, in 1978, affirmed 66 percent of appeals as of right based on dissent in the Appellate Division as against the 51 percent and 58 percent of appeals taken by leave in that year. The solution incorporated in this amendment is to retain dissent as a basis for appeals as of right, but to require the dissent of two justices rather than only one as a basis for a mandatory appeal, whether the order is one of reversal, modification or affirmance.

The sound administration of the courts as well as the interests of the bar and the public require that the obligatory jurisdiction of the Court of Appeals be curtailed so that its permissive jurisdiction may be extended.

7. CPLR 6313.

The Committee recommends that CPLR 6313, governing the temporary restraining order, be amended to require that if no notice is directed, the court state on the face of the order why it is being dispensed with, thus encouraging the procedure of requiring notice even of a temporary restraining order except in exigent circumstances.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to notice of motion for a temporary restraining order

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section sixty-three hundred thirteen of the civil practice law and rules, as amended by chapter three hundred eighteen of the laws of nineteen hundred sixty-two, is amended to read as follows:

(a) Generally. If, on a motion for a preliminary injunction, the plaintiff shall show that immediate and irreparable injury, loss or damages will result unless the defendant is restrained before a hearing can be had, a temporary restraining order may be granted without notice. *If the circumstances are such that notice, even if only by telephone or other informal means, is practicable and would not defeat the purpose of the order, the court shall direct that it be given; and if the court finds otherwise, it shall state in the order the reasons for dispensing with notice.* Upon granting a temporary restraining order, the court shall set the hearing for the preliminary injunction at the earliest possible time. No temporary restraining order may be granted in an action arising out of a labor dispute as defined in section eight hundred seven of the labor law, nor against a public officer, board or municipal corporation of the state to restrain the performance of statutory duties. This section shall not apply to the attorney-general when an application is made by the attorney-general in a proceeding under article twenty-three-a of the general business law.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The Committee was asked to encourage judges to require notice of a temporary restraining order (TRO) in instances where it is feasible to have such notice given. The matter came before the Committee prior to last year's (the 1979) Report, but was put over until this year to obtain the advice and experience of a broad sampling of Supreme Court justices. (Since the TRO involves equity jurisdiction, it is almost exclusively a product of Supreme Court practice).

To obtain this sampling, the matter was placed on the agenda of the annual meeting of the state's trial judges, the so-called "Crotonville Conference", where the judges related a range of experiences with the temporary restraining order.

The primary aim of the TRO is to retain a status quo while an application is brought on for a preliminary injunction. While that injunction (if granted) covers the whole pendency of the action until final judgment, the TRO covers only the period for bringing on the preliminary injunction hearing. Each instance of an application for a TRO is therefore one in which — at least to hear the applicant (assume it is the plaintiff) tell it — the urgency is too great to admit of any notice at all to the other side (assume it is the defendant). The experience of a majority of the judges suggests that while there is occasionally a showing of an exigency sufficient to dispense with notice of the TRO, many of the cases involve no such urgency and can well stand the giving of notice, however informal, of the TRO. The Committee is of the view that if the giving of notice is feasible and appropriate, then as a matter of policy it should be given.

The amendment of CPLR 6313 therefore provides that if the giving of notice is practicable, it should be ordered. The court can require the giving of notice in whatever form it chooses. It is common among a number of judges now, for example, even under the present version of CPLR 6313, to require the applicant to give telephone notice to the other side, the judge often permitting his or her own phone in chambers to be used for the purpose.

A ground for dispensing with notice is where there is a significant chance that the other side, upon being notified of the TRO application, will forthwith do the very thing the whole procedure is designed to prevent, such as by immediately removing from the state a chattel which is at the crux of the action. The court must be convinced that such a doing is not just the applicant's fancy, but a real possibility, before dispensing with notice, and it will of course be incumbent on the applicant to do the convincing in affidavits accompanying the initial application for the TRO (whose usual context is an order to show cause, bringing on the preliminary injunction application).

If for any reason notice of the TRO is dispensed with, the court under this amendment must state on the face of the TRO "the reasons for dispensing with notice". It is the Committee's hope that by so requiring, it will be each judge's practice to make the giving of TRO notice the norm and dispensing with it the exception.

8. CPLR 7515.

The Committee recommends that a statute be enacted directing that the trial of questions of arbitrability be without a jury.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to the trial of preliminary issues in respect to arbitration

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The civil practice law and rules is hereby amended by adding thereto a new section, to be section seventy-five hundred fifteen, to read as follows:

§7515. Trial of preliminary issues. Upon an application to compel or stay arbitration, issues of fact relating to the making of a valid agreement to arbitrate or the compliance therewith shall be tried by the court without a jury.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The Committee makes this recommendation unanimously, but with decidedly mixed emotions.

The purpose of arbitration is to facilitate dispute resolution. It is not consistent with that purpose to permit one party to an ostensibly arbitrable dispute to delay the arbitral process by interposing objections to arbitration and then, if issues of fact are presented about whether an agreement to arbitrate was made, to insist that they be tried by jury. Additionally, of course, is the factor of the over-burdened calendars of the courts, which are hardly helped by having to impanel juries to determine arbitrability questions. The Committee has often been asked to recommend a statute which would dispense with the trial by jury of such issues.

The problem is one of constitutionality. Some of the Committee have serious reservations about whether a statute can dispense with a jury in trying such issues. They reason that if, absent any commitment to arbitrate, an ordinary action involving the dispute would be triable by jury, such as where it involves money only, a genuine issue as to whether the dispute is to be taken away from the courts would also require trial by jury. An arbitrability issue, concludes this argument, is just such an issue.

An opposing view is that if a party has affixed his signature to an agreement containing an arbitration clause, he has established link enough with an obligation to arbitrate to permit trial of the issue by the court without a jury.

Ideal would be an amendment of the state constitution to dispense expressly with trial by jury in such instances. But the amendment process is a cumbersome one. The Committee takes the position that the matter should not be pressed to the constitutional-amendment point until the Court of Appeals has at least had a chance to address the issue whether, under present law, the arbitrability question is triable by jury. While a statute dispensing with trial by jury of the question is not indispensable to set up a court test, it would surely be helpful. Hence, the Committee recommends the adoption of CPLR 7515, dispensing with trial by jury of the threshold question of arbitrability and permitting the question to be heard and resolved by the court.

Because of the Committee's reservations about constitutionality, a report addressed to the subject was undertaken by a Yale law student under the direction of Professor Geoffrey C. Hazard, Jr. The report, which appears at page 314 of the Judicial Conference's 1978 Annual Report, concludes that the Constitution does not bar the Legislature from terminating the right to trial by jury of the arbitrability issue. The matter remains in doubt, and its submission to the courts is deemed the most appropriate step.

If the courts determine that trial by jury is required, and set CPLR 7515 aside as unconstitutional, the Committee will have performed what it considers to be its duty to help set the stage for this test.

9. CPLR 7803(4); CPLR 7804(g).

The Committee recommends that CPLR 7803(4) be amended to clarify that the substantial evidence test applies only to those hearings which require testimony to be under oath, and that CPLR 7804(g) be amended to clarify which issues the Supreme Court is to decide at Special Term before directing that a case involving the substantial evidence test be transferred to an Appellate Division for determination.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to hearing and determination, and transfer to appellate division, of article seventy-eight proceeding

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph four of section seventy-eight hundred three of the civil practice law and rules is amended to read as follows:

4. Whether a determination made as a result of a hearing held, and at which evidence was taken *under oath*, pursuant to direction by law is, on the entire record, supported by substantial evidence.

§2. Subdivision (g) of section seventy-eight hundred four of such law and rules is amended to read as follows:

(g) Hearing and determination; transfer to appellate division. Where [an] *the substantial evidence* issue specified in question 4 of section 7803 is not raised, the court in which the proceeding is commenced shall itself dispose of the issues in the proceeding. Where such an issue is raised, the court shall *first dispose of such other objections as could terminate the proceeding without reaching the substantial evidence issue. If the determination of the other objections does not terminate the proceeding, the court shall* make an order directing that [the proceeding] *it* be transferred for disposition to a term of the appellate division held within the judicial department embracing the county in which the proceeding was commenced [; the court may, however, itself pass on objections in point of law]. When the proceeding comes before it, whether by appeal or transfer, the appellate division shall dispose of all issues in the proceeding, or, if the papers are insufficient, it may remit the proceeding.

§3. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

CPLR 7804(g), which requires that an Article 78 proceeding involving the substantial evidence review criterion be transferred by the Supreme Court, where the proceeding is begun, to the Appellate Division, provides also that the Supreme Court "may . . . itself pass on objections in point of law" before making the transfer. Just what questions are to be passed upon under this ambiguous criterion has always been a source of disagreement.

The soundest conclusion the Committee discerns from among the several that the provision can give rise to, is that the Supreme Court should pass only on those objections which have the potential for determining the case without reaching the substantial evidence question, i.e., objections which can dismiss the action and thus obviate a transfer. The matter had the attention of the annual Crotonville Conference of Trial Judges in 1979, and the consensus of the judges was in harmony with the above conclusion.

Accordingly, the Committee recommends that Special Term pass only on such objections as could dismiss. Examples would be want of jurisdiction, statute of limitations, res judicata and the like. If any such objection succeeds, the case is dismissed and a transfer (and a reaching of the substantial evidence issue) is made unnecessary. If it fails, the case can then be transferred up for determination of the substantial evidence issue by the Appellate Division, along with such other objections as did not have the potential for terminating the case, e.g., questions of admissibility of evidence by the agency, the following of proper administrative procedure, etc.

An alternative the Committee rejected was a repeal of CPLR 7804(g), so as to give even the substantial evidence question to the Supreme Court, with the Appellate Division to get it, if at all, only later on as part of an ordinary appeal. Since the substantial evidence rule is an adjunct of the old writ of certiorari, which applied only when it was sought to review a determination following a full-fledged "quasi-judicial" hearing (what the State Administrative Procedure Act denominates an "adjudicatory proceeding"), and since this phase of Article 78 carries forth that function, the procedure of leaving initial judicial review of the substantial evidence question to the Appellate Division should be retained. The premise underlying this procedure is that there has already been a plenary hearing before the agency, giving rise to a full record, and that a "substantial evidence" review of that record should go only to an appellate-level court. The Committee is of the view that the reason for "filtering" it through nisi prius, as CPLR 7804(g) does, is only to enable that court to determine other issues which may be raised and which can obviate disposition of the substantial evidence issue.

Consistent with that view, the Committee also proposes a brief clarifying amendment of CPLR 7803(4), which lists the substantial evidence question as one appropriate for Article 78 to raise. The substantial evidence standard applies when there has been a hearing and this has always meant an evidentiary hearing of the quasi-judicial kind referred to above. To clarify that it does not apply when the "hearing" is of different kind, such as an open "hearing" conducted by diverse municipal governing bodies in carrying out a myriad of functions, but which involves no sworn testimony, the Committee suggests the amendment of CPLR 7803(4) to require that the evidence taken at such hearing be under oath in order for the hearing to produce a record qualifying for "substantial evidence" treatment. In this respect the addition of the words "under oath", the only addition recommended for CPLR 7803(4), is merely a clarification.

An administrative determination not qualifying for the substantial evidence test under CPLR 7803(4) still gets the benefit of the expeditious procedures of Article 78 of the CPLR, but the test applied to it comes from one of the prior paragraphs of CPLR 7803, such as the "arbitrary and capricious" test of CPLR 7803(3).

10. CPLR 8201-8204.

The Committee recommends the amendment of this quartet of sections to raise the amount of action costs, for which they provide, to recognize the accelerated inflation of recent years.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to amount of costs in an action

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eighty-two hundred one of the civil practice law and rules, as amended by chapters seven hundred thirty-four and seven hundred thirty-five of the laws of nineteen hundred seventy-two, is hereby amended to read as follows:

§8201. Amount of costs in an action. Costs awarded in an action shall be in the amount of:

1. [fifty] *two hundred* dollars [in the counties within the city of New York, and twenty-five dollars in all other counties,] for all proceedings before a note of issue is filed; plus

2. [one] *two* hundred dollars [in the counties within the city of New York, and fifty dollars in all other counties,] for all proceedings after a note of issue is filed and before trial; plus

3. [one] *three* hundred [fifty] dollars [in the counties within the city of New York, and seventy-five dollars in all other counties,] for each trial, inquest or assessment of damages.

§2. Section eighty-two hundred two of such law and rules, as amended by chapters seven hundred thirty-four and seven hundred thirty-five of the laws of nineteen hundred seventy-two, is hereby amended to read as follows:

§8202. Amount of costs on motion. Costs awarded on a motion shall be in an amount fixed by the court, not exceeding [forty] *one hundred* dollars [in counties within the city of New York, and twenty dollars in all other counties].

§3. Subdivision (a) of section eighty-two hundred three of such law and rules, as so designated by chapter three hundred ninety-one of the laws of nineteen hundred seventy-two and as amended by chapter seven hundred thirty-five of the laws of nineteen hundred seventy-two, is hereby amended to read as follows:

(a) Unless the court awards a lesser amount, costs awarded on an appeal to the appellate division shall be in the amount of [: 1. twenty-five dollars for all proceedings before argument; plus 2. fifty dollars for argument] *two hundred fifty dollars*.

§4. Section eighty-two hundred four of such law and rules, as amended by chapter seven hundred thirty-five of the laws of nineteen hundred seventy-two, is hereby amended to read as follows:

§8204. Amount of costs on appeal to court of appeals. Unless the court awards a lesser amount, costs awarded on an appeal to the court of appeals shall be in the amount of [: 1. fifty dollars for all proceedings before argument; plus 2. seventy-five dollars for argument] *five hundred dollars*.

§5. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

What few adjustments have been made in the CPLR costs provisions have been slow and small. Costs have never been commensurate with the actual expense of litigating an action, but as the dollar has declined in value at an accelerated pace over recent years, the amounts provided have perhaps lost what little significance they had.

The Committee proposes to make an across-the-board increase in the amount of costs awardable for the various stages of an action (CPLR 8201), for a motion (CPLR 8202), and for appeals to the Appellate Division (8203(a)) and the Court of Appeals (CPLR 8204).

With respect to costs awardable in an action, a distinction is presently made between New York City and elsewhere. The costs are awardable in stages under CPLR 8201, but the sums awardable in New York City counties are double those awardable in the other 57 counties. The proposal removes this distinction, so that the sums suggested would apply in all counties.

Costs awardable for proceedings before the filing of a note of issue are presently $50 in New York City and $25 elsewhere. The amendment of CPLR 8201(1) would change this to a uniform $200. This may appear at first blush to be at least a quadrupling of the present figure. It is not, for this reason: this pre-note of issue segment has until recent years involved little preparation. The practice was to file the note of issue early in the case, before the trouble and expense of disclosure and other pretrial proceedings were undertaken. In this era of the statement of readiness, however, which must accompany the note of issue, this first stage has become a busy and expensive one. This fact has never been recognized in a costs adjustment. The proposal accords it that recognition.

The second stage, which covers the period after the filing of the note of issue but before an actual trial, presently invokes costs of $100 in New York City and $50 elsewhere; a uniform $200 is substituted for statewide application under the proposed amendment of CPLR 8201(2). Steps one and two in litigation will now each carry costs of $200.

The trial itself, should the case get that far, involves costs of $150 in New York City and $75 elsewhere at present. The proposed amendment of CPLR 8201(3) substitutes a uniform $300 for this step statewide.

Under the proposals, total costs, should a trial result, would be $700 in a Supreme Court action, as opposed to the present total of $300 in New York City and $150 in other counties. If the jump seems at all dramatic, it is only because of continuing omissions over the years to have the costs provisions merely track the movement of the dollar.

A proposal to have costs for the trial stage progress on a per diem basis (the amount proposed was $200 daily) was deferred by the Committee, not because unfair or unjust, but because it was deemed to be too radical a step in the context of the history of costs in New York.

Motion costs are presently a maximum of $40 under CPLR 8202. The proposal would raise the maximum to $100. Considering that this provision governs every category of motion, and that ordinarily even the most insignificant motion will entail time and effort ultimately costing each litigant well in excess of the $100 maximum proposed, the figure was deemed an appropriate one.

It should be pointed out in connection with motion costs that CPLR 8202 governs only the *amount* of motion costs, should they be awarded. *Whether* to award them is the mission of CPLR 8106, which leaves the matter to the court's discretion. That discretion could of course be exercised to award costs, but in a sum less than the $100 maximum. Several members of the Committee expressed the view that a more liberal application of the costs sanction on motions might have a salutary effect on discouraging at least the more frivolous motions.

The sum of $75 is the maximum award applicable at present on an appeal to the Appellate Division under CPLR 8203(a). The proposal raises this to $250 and eliminates the two-stage award (one before and one after argument) now used.

The sum of $125 is the present maximum for costs upon an appeal to the Court of Appeals under CPLR 8204. The proposal raises this to $500, still far from any realistic appraisal of the appeal's actual cost but nonetheless a step forward. Again, the two-stage standard presently applicable is abandoned.

The labors which went into a formulation of the costs proposals were largely those of one of the Committee's own members, William D. Eggers of Rochester, and the Committee wishes to acknowledge those efforts with thanks.

Part III — Pending and Future Matters

The Committee has a number of irons in the fire. The more prominent of these are the following:

1. A study of the disclosure article continues, undertaken jointly by Robert T. Greig, Esq., of our Committee, and Justice William P. McCooe of the Supreme Court, New York County. It is hoped that this study will in due course improve and update the disclosure article substantially.

2. Last year the proposed amendments of the official forms were circulated for study and comment, and this produced a number of constructive suggestions, all of which have been channeled to Professor Sheila L. Birnbaum of New York University School of Law. Professor Birnbaum drafted the proposed form amendments and has graciously undertaken to review all of the suggestions that their circulation produced and to furnish the Committee with a final product.

3. Further study of costs changes, especially in respect of the extra allowances provided by Article 83 of the CPLR and the costs applicable to smaller actions in Article 19 of the lower court acts, is under way, a further aspect of the costs proposals contained in the Committee's 1980 proposals (Item 12 in Part II of this Report).

4. The Committee will consider the Court of Appeals *Matter of Gordon* decision, _____ N.Y. 2d _____, _____ N.Y.S. 2d _____, handed down late in 1979, invalidating the residency requirements for bar admission. Legislative implementation of that decision will require CPLR amendments, which may touch the Committee's jurisdiction even though judicial procedure is not involved.

5. The need to extend the period by which service by mail stretches responding times, presently a three-day expansion under CPLR 2103(b)(2), is under study. Post office delays necessitate a review, but any extension would have a confusing effect on short responding times. The Committee began consideration of the matter in December, but a number of incidental problems arose requiring the matter to be postponed until the 1981 legislative session.

6. A case presently before the United States Supreme Court involves the constitutionality of the *Seider v. Roth* doctrine, being tested through a Minnesota decision adopting the doctrine, and another case involves the permissible constitutional reach of long arm in personam jurisdiction in tort cases. The Committee will track these cases to see whether any CPLR amendments are warranted by what the Supreme Court ultimately decides in them.*

7. The Committee may consider the possibility of making provisional remedies available in conjunction with pending arbitrations. Case law is presently divided on their availability.

8. The ad damnum clause will be under study. A proposal to abolish it in all cases has run into difficulty, especially with respect to how to handle a complaint having no money demand in default situations.

9. The problem of a Small Claim being dismissed when found to be in effect asking for "equitable" relief is under study.

10. The Committee has been consulted several times in conjunction with Chief Judge Cooke's expansion of judicial arbitration as a means of calendar aid, and will turn attention

*[Editors note]. Both cases were decided after this Report was written. See *Rush v. Savchuk*, _____ U.S. _____, _____ S. Ct. _____ (January 21, 1980) and *Volkswagen v. Woodson* _____ U.S. _____, S. Ct. _____. (January 21, 1980).

to the project again if any procedural problems should arise on which the Committee can be of assistance.

11. A number of other suggestions are being considered by the Committee, and these are added to regularly.

* * * * *

The Committee will continue to solicit comments and suggestions from bench, bar and public, and invites the sending of all such to the:

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Office of Court Administration (Suite 1402)
270 Broadway
New York, New York 10007

January 24, 1980.

Respectfully submitted,

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Ninth Annual Report
to the
Judicial Conference
and the
Chief Administrator of the Courts of the State of New York
by the
Advisory Committee on Criminal Law and Procedure

January 1980

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I. Introduction

This is the Ninth Annual Report of the Advisory Committee on Criminal Law and Procedure. We recommend that the Judicial Conference sponsor fourteen new bills to amend the Criminal Procedure Law and one to amend the County Law. Each of the bills is appended to the report in the order in which it is discussed.

The proposed amendments to the Criminal Procedure Law include the addition of authorization for the Chief Administrator to prescribe official forms for use in criminal courts throughout the State, and various proposals governing grand jury proceedings, pre-trial motions, trial procedure and appeals.

The bills affecting grand jury proceedings would authorize the use of transcripts of preliminary hearings before the grand jury, clarify the provision granting immunity to witnesses appearing before the grand jury, allow a defendant who chooses to waive immunity and testify before the grand jury to obtain copies of any statements he previously made to a public servant, and permit the grand jury to include in an indictment of a juvenile offender, all offenses which were part of the same criminal transaction.

With respect to pre-trial proceedings, our proposals would expand the authorization for ordering disclosure of nontestimonial evidence, authorize the videotaping of conditional examinations of witnesses, allow a court to order that a hearing on a suppression motion be held during trial, and require a defendant to submit sworn allegations of fact in support of a motion to suppress statements.

Our recommended amendments relating to the conduct of the trial would expand the participation of the trial judge in the jury selection process, permit the court to reserve decision on a motion for a trial order of dismissal until after the verdict is rendered, and, upon the request of a deliberating jury, allow the court to submit the text of applicable statutes for their consideration.

Our proposals regarding appeals would establish a uniform standard to be applied to all appeals from sentences, and codify existing case law permitting a defendant to waive the right to appeal the denial of a suppression motion upon entering of a plea of guilty.

Our final proposal would amend the County Law to establish a procedure for the review of reimbursement to assigned counsel.

We also recommend continued support for pending matters not passed at the 1979 session of the Legislature. We are pleased to report that five of the nine proposals to amend the Criminal Procedure Law included in last year's recommen-

dations were passed by the Legislature and signed into law. We, therefore, now urge support for the remaining pending bills, which would reduce the allotted number of peremptory challenges to jurors in all felony trials, allow a deliberating jury to separate, prohibit the granting of permission to appeal to the Court of Appeals by a justice of an appellate division who did not participate in the determination, and limit the number of judges who may grant a stay pending appeal from a judgment or sentence of the Supreme Court in the City of New York. Also pending is a proposed amendment to the Penal Law clarifying the definition of bribery.

II. Proposed Amendments to the Criminal Procedure Law

A. Chief Administrator to Prescribe Forms .... §1.15

The Committee recommends an amendment to article One of the Criminal Procedure Law adding a new section which authorizes the Chief Administrator of the Courts to adopt, amend and rescind forms to be used in all criminal courts throughout the State.

Under existing provisions of the Civil Practice Law and Rules (§107), the Family Court Act (§214), and the Surrogate's Court Procedure Act (§106), the Chief Administrator is authorized to prescribe forms for the efficient administration of these acts. Our proposal would include this authority in the Criminal Procedure Law.

We have recently commenced a project to establish an official set of forms for use in all criminal courts. In the past few months we collected samples of existing forms used in the various courts. Our consultant is presently studying these samples and preparing revisions to achieve uniformity and compliance with applicable provisions of law. The promulgation of these forms would ensure a degree of uniformity in criminal practice throughout the State where presently a variety of forms are employed.

B. Use of Transcripts of Preliminary Hearings in Grand Jury Proceedings .... §190.30

The Committee recommends an amendment to section 190.30 of the Criminal Procedure Law to permit the receipt in evidence before the grand jury of transcripts of testimony taken at a preliminary hearing when, as a result of the hearing, the defendant has been held for the action of the grand jury. Present law requires, with a limited number of exceptions, that the strict rules of evidence apply to grand jury proceedings, and, therefore, hearsay evidence is generally inadmissible. CPL §§60.10, 190.30(1).

Our proposal is designed to alleviate the hardship suffered by crime victims when they are required to make numerous court appearances in relation to a criminal proceeding. A reduction in the number of required appearances can be attained by amending the grand jury rules of evidence to provide that when there has been testimony given by a victim at a preliminary hearing in a local criminal court, and, as a result of the hearing, the defendant has been held for the action of the grand jury, a transcript of that testimony may be received in evidence before the grand jury. Section 190.30 of the Criminal Procedure Law presently contains a number of exceptions permitting the use before the grand jury of written or oral statements which would not be admissible at the trial. CPL §190.30(3).

Since the witnesses before the grand jury may not be cross-examined by the defendant, there is no injustice in permitting the use of this prior testimony as evidence. This proposal would, however, retain the power of the grand jury to cause any person to be called as a witness.

C. Immunity of Grand Jury Witnesses .... §190.40

The Committee recommends an amendment to section 190.40 of the Criminal Procedure Law to clarify existing law by providing that a witness before the grand jury does not receive immunity by reason of giving identification evidence of a nontestimonial character which the witness would have no constitutional privilege to withhold.

Section 190.40 of the Criminal Procedure Law now confers immunity upon any witness who has been compelled to "give evidence" before the grand jury. This requirement of giving evidence is, however, overbroad and could be construed to authorize immunity for a person appearing before the grand jury even if the evidence he gives was nontestimonial and not of a type which he is otherwise privileged to withhold.

If a witness has no privilege with respect to this evidence, he has given up nothing by furnishing it to the grand jury, and should not receive immunity as a result.

These considerations apply primarily to the giving of nontestimonial identification evidence, such as standing in a lineup, or furnishing a blood, voice or fingerprint sample. A witness has no constitutional privilege to refuse to give this evidence, (*Schmerber v. California*, 384 U.S. 757), and, therefore, should not receive immunity by reason of providing it.

Paragraph (c) of subdivision two of section 190.40, as added by the Legislature in 1975, recognizes this principle as it applies to corporate books and records which a witness would similarly not be privileged to withhold. This measure would delete paragraph (c) and replace it with a general provision which limits the grant of immunity to evidence which is protected from disclosure by the privilege against self-incrimination.

D. Disclosure of Grand Jury Witness's Statements .... §190.50

The Committee recommends an amendment to section 190.50 of the Criminal Procedure law to permit a defendant who appears before the grand jury and signs a waiver of immunity, to discover statements which he previously made to a law enforcement official.

Pursuant to existing section 240.20 of the Criminal Procedure Law, an indicted defendant is entitled to receive, upon demand, a copy of any statements made to a law enforcement agent. This requirement is necessary to enable the defendant to prepare his defense intelligently. *People v. Remaley*, 26 N.Y.2d 427, 429 (1970). This material is equally beneficial to a defendant who has signed a waiver of immunity and is about to appear before the grand jury. Our proposal would limit discovery to these circumstances in order to curtail abuses of this privilege and *pro forma* applications.

A District Attorney is not obligated to inform a person that a proceeding is pending against him unless he is a defendant who has previously been arraigned upon a felony complaint in a local criminal court. CPL §190.50(5) (a). A defendant who is so informed and who exercises the right to testify before the grand jury, is in the same position as an indicted defendant preparing for trial. Therefore, this defendant should also be entitled to a copy of prior statements. If, upon reviewing the statement, a defendant requires additional time to study the material, accommodations may be made for obtaining an adjournment in the court's discretion. *See*, CPL §190.25(6).

E. Juvenile Offender Indictment — Joinder of Offenses .... §§190.71, 200.20

The Committee recommends the repeal of section 190.71 and an amendment to section 200.20 of the Criminal Procedure Law to permit a grand jury, upon the indictment of a juvenile offender, to also charge, in certain circumstances, one or more other offenses for which the juvenile would not be criminally responsible by reason of infancy. At present, an indictment may only charge those felonies for which the juvenile is criminally responsible pursuant to section 1.20(42) of the Criminal Procedure Law. The court may, however, submit to the jury a lesser included offense even though it was not charged in the indictment. CPL §300.50(5). This practice has led to confusion in those cases where a juvenile commits a number of crimes in the course of one criminal transaction. Although the jury may hear evidence concerning all the offenses, the indictment may not contain charges for which the juvenile offender is not criminally responsible, and, if those charges are not technically lesser included offenses, they may not be submitted to the jury for a verdict.

Joinder under these circumstances would permit the jury to render a verdict with respect to all the charges which were part of the criminal transaction. Upon a conviction for an offense for which the juvenile offender is not criminally responsible, the court must set aside the verdict and replace it with a juvenile delinquency fact determination and remove the action to Family Court for disposition. CPL §310.85(3). This procedure would eliminate the confusion presently existing and avoid the duplication of judicial effort caused by the current practice of presenting the lesser offenses in Family Court while the juvenile offender proceeding is pending in Supreme or County Court.

F. Discovery of Nontestimonial Evidence .... §240.40

The Committee recommends an amendment to section 240.40 of the Criminal Procedure Law to expand a court's authority to issue an order requiring a defendant to provide nontestimonial evidence.

New section 240.40 of the Criminal Procedure Law, effective January 1, 1980, authorizes a court in which an indictment, superior court information, prosecutor's information or information is pending to order a defendant to provide nontestimonial evidence. This order may require a defendant to appear in a lineup, speak for identification, be fingerprinted, pose for photographs, provide blood, hair or handwriting samples or permit a medical examination. CPL §240.40(2).

Our proposal would expand the court's authority to issue this order to instances when a felony or misdemeanor complaint is pending. Since these accusatory instruments must also contain factual allegations supporting or tending to support the charges, there is no reason to exclude them from the list of instruments which provide the basis for the court's authority. *See*, CPL §100.15.

G. Conduct of Voir Dire .... §270.15

Last year the Committee recommended an amendment to reduce the allotted number of peremptory challenges to jurors available to the parties in felony trials. In furtherance of our efforts to develop proposals to increase the efficiency of the jury selection process, we recommend an amendment to section 270.15 of the Criminal Procedure Law to delete the requirement that the court must permit the parties to examine prospective jurors and replace it with a procedure which confers this responsibility upon the court.

After the general examination of prospective jurors conducted by the court under existing law, our proposal would require that the court ask the jurors those questions previously submitted to the court in writing by the parties. Alternatively, the court may permit counsel to ask these previously submitted questions. During the voir dire, if additional questions are deemed necessary by either party, they may be submitted to the court orally or in writing and the court is then required to add these to its inquiry or allow the attorneys an opportunity to ask them.

This procedure would result in the elimination of a significant amount of delay caused by the prolonged voir dire now conducted by the attorneys. It combines the attributes of the existing system in New York and the Federal jury selection system, in which voir dire is generally conducted by the court without the participation of the attorneys. Our proposal would eliminate delay while preserving the rights of the parties to an impartial jury.

H. Decision of Motions for a Trial Order of Dismissal .... §§290.10, 450.20

The Committee recommends an amendment to section 290.10 of the Criminal Procedure Law to permit a trial court to reserve decision on a motion for a trial order of dismissal until after a verdict of guilty has been rendered.

By reserving decision, the trial court may preserve the People's right to appeal an adverse decision without affecting the rights of the defendant, since the decision would have to be based upon the evidence presented up to the time when the motion was made. If the motion were to be granted immediately based upon the insufficiency of the evidence presented, reprosecution would be impermissible and, therefore, the decision would not be appealable. *People v. Brown*, 40 N.Y.2d 381 (1976), *cert. den.*, 429 U.S. 975. A decision issued after a verdict has been rendered, however, is appealable since upon reversal the appellate court may reinstate the verdict and avoid the problems created by defendant's constitutional privilege against double jeopardy. *People v. Leach*, 46 N.Y.2d 821 (1978).

I. Text of Statutes to Deliberating Jurors .... §310.30

The Committee recommends an amendment to section 310.30 of the Criminal Procedure Law to specifically authorize a court to provide a deliberating jury with copies of statutes or portions of statutes applicable to the charges which are the subject of the deliberations.

At present, much time is spent by the court in certain cases reading and rereading statutory material which could be supplied to the jury for easy reference and which would aid the jury in reaching a verdict. Since questions may arise concerning which sections of pertinent statutes should be given to the jury, our proposal requires the consent of the parties prior to providing the material to the jury.

J. Appeals from Sentences .... §§450.30, 470.15, 470.20

In the past year the Committee has studied various proposals addressed to the problem of disparity in sentencing. Sentencing disparity has become a major problem of the criminal justice system in New York State. Disparity has greatly compromised the deterrent value of sentencing by offering criminal defendants the prospect of an unduly lenient sentence; excessive sentences have been the source of prison unrest, and perhaps, worst of all, inconsistency in sentencing undermines the public's confidence in the criminal justice system itself.

In response to this problem, it is necessary to develop both a comprehensive set of sentencing guidelines, and a uniform, coherent and efficient sentence review mechanism.

As an initial step in achieving this goal, the Committee recommends an amendment to sections 450.30, 470.15 and 470.20 of the Criminal Procedure Law dealing with the issue of the appellate review of sentences. Our proposal would establish a uniform expanded standard of review to be applied by each of the four appellate divisions. This standard is designed to create a uniform review policy for the State, and thereby reduce the widespread disparity of trial court sentences while specifically addressing the existing disparities between sentence appeal decisions.

In addition, this bill authorizes the appellate divisions to increase an inappropriately lenient sentence as well as reduce an inappropriately severe one. This additional authority is a necessary corollary to the existing authority to reduce a sentence, since disparity is a result of both excessive and unduly lenient sentences. The possibility of a sentence increase would also deter the frivolous appeals of defendants who hope to have an already lenient sentence reduced, and thereby permit the courts to concentrate on meritorious appeals.

This proposal would impose a modicum of sentencing stability upon the trial courts by enforcing a statewide sentence review policy. Sentencing disparity has become a major concern of our criminal justice system. This bill, coordinated with the development of sentencing guidelines, would greatly reduce disparity and consequently restore public confidence in the criminal justice system.

K. Videotaping of Conditional Examinations .... §§660.10, 660.20, 660.40, 660.50, 660.60, 670.10, 670.20

The Committee recommends an amendment to various sections of Article 660 of the Criminal Procedure Law to specifically authorize the videotaping of conditional examinations of witnesses in criminal prosecutions. It would further allow a conditional examination of a witness in cases where there is reasonable belief that there has been an attempt to induce the witness to avoid testifying. This bill would also amend Article 670 of the Criminal Procedure Law to expand the authorization for use of prior testimony to include testimony taken at all pre-trial hearings.

At present, Article 660 of the Criminal Procedure Law permits the preservation of testimony for trial by stenographic means, but does not specifically sanction the use of videotape recordings. This lack of clarity has resulted in conflicting case law in this area. *See, e.g., People v. Lamberty*, 94 Misc.2d 636 (Supreme Court, Bronx County, 1978), precluding the use of videotape recordings and *People v. Winborne*, 90 Misc.2d 71 (Supreme Court, Bronx County, 1977) permitting the use of videotape recordings to preserve testimony for trial.

The perpetuation of deposition testimony by videotape is authorized in civil cases by CPLR 3113(b). Furthermore, the taking of depositions by videotape in criminal cases is allowed in the Federal courts and in the courts of certain sister states.

The use of videotape in preserving deposition testimony provides a procedure which assures the accuracy and the integrity of the record. It provides a permanent viewable record of both direct testimony and cross-examination of the deponent, thereby enabling the jury to observe the demeanor of the witness while testifying.

The expansion of authorization for the use of prior testimony to include the testimony of witnesses appearing at pretrial hearings would apply only if all statutory conditions applicable to the authorized use of other previous testimony are met. Under these circumstances this testimony is equally reliable and beneficial to the parties when a witness subsequently becomes unavailable.

L. Suppression Hearings During Trial .... §710.40

The Committee recommends an amendment to section 710.40 of the Criminal Procedure Law to authorize a court, with the consent of the parties, to conduct a hearing upon a motion to suppress evidence simultaneously with the trial. Present law provides that the trial may not be commenced until determination of the motion. In some instances this requirement is unnecessary and causes inconvenience to parties and witnesses.

Whenever a defendant receives from the prosecutor a notice of intention to offer evidence pursuant to CPL §710.30, it has become standard practice for the defendant to make a motion to suppress that evidence. In many cases a hearing is then held upon the motion, and the evidence offered at the hearing largely duplicates the evidence presented at the trial. In the majority of the cases the evidence is not suppressed and a trial is scheduled. In essence, therefore, two trials are held. In addition to the expense this duplication entails, the victim, who has already suffered the trauma of the crime, and who perhaps had to appear in the local criminal court and before the grand jury, and who will still have to appear to testify at the trial, is put through the ordeal of another testimony and cross-examination.

Our proposal would authorize the court in those cases where the parties agree that it would be appropriate, to conduct the hearing during the trial. If the court finds that the evidence should be suppressed it may declare a mistrial. The Court of Appeals has specifically authorized this procedure. *People v. Ganci*, 27 N.Y.2d 418, 427 (1971). This bill would merely codify the Court of Appeals decision in *Ganci*, and would require the consent of the parties to ensure that their rights are preserved.

M. Summary Dismissal of Motions to Suppress Evidence .... §710.60

The Committee recommends an amendment to section 710.60 of the Criminal Procedure Law to allow a court to dismiss summarily a motion to suppress statements when the movant fails to provide sworn allegations of fact to support the motion. This procedure has been upheld, under existing law, by the Appellate Division, Second Department. *People v. Roberto H.*, 67 A.D.2d 549 (2nd Dept., 1979). Our proposal would merely codify that decision. The Criminal Procedure Law "does not require a hearing on a motion to suppress without regard to whether there is any basis for such motion, and without regard to the factual showing made in support of such motion." 67 A.D.2d at 553. By requiring a factual showing this bill will discourage *pro forma* motions which unnecessarily burden our court system.

N. Waiver of Appeals from Denials of Motions to Suppress Evidence .... §710.70

Section 710.70(2) of the Criminal Procedure Law now provides that "an order finally denying a motion to suppress evidence may be reviewed upon an appeal from an ensuing judgment of conviction notwithstanding the fact that such judgment is entered upon a plea of guilty." This provision enables a defendant, after his motion to suppress is denied, to plead guilty to the charges and save the time and expense of a trial when his main defense was based upon the suppression of evidence. A defendant in this position is not required to go through an entire trial simply to preserve an issue on appeal.

There are, however, many cases in which, as part of a negotiated plea, the defendant pleads guilty to a lesser charge or pleads guilty to a charge in one indictment to cover several other indictments. In these cases, the defendant has made a bargain and received a benefit for his agreement to conviction for a particular crime. Nevertheless, on appeal, he may continue to argue that he should be relieved of the bargain which he freely made. This increases the heavy burden on our appellate courts, and, if the conviction is ultimately reversed, the passage of time may have severely impaired the prosecution's case.

The Committee, therefore, recommends an amendment to section 710.70 of the Criminal Procedure Law which would codify existing case law which authorizes a court to accept a waiver of appeal from a defendant who pleads guilty to a lesser charge. It is certainly not unfair to require a defendant as part of a plea bargain to recognize that the bargain is final and that previous rulings are out of the case. The defendant could still appeal the excessiveness of his sentence or anything else not included in his agreement.

The Court of Appeals has expressly upheld this practice and the Appellate Division, Second Department has suggested in an opinion that the Legislature should address this issue. *People v. Williams*, 36 N.Y.2d 829 (1975); *People v. Navarro*, 61 A.D.2d 534 (1978).

III. Proposed Amendment to the County Law

A. Review of Reimbursement to Counsel Representing Indigent Defendants ... §722-b

At the request of the Administrative Board, the Committee considered the development of a system of review of the amount of reimbursement given to assigned counsel in criminal cases. As a result of our study we recommend an amendment to section 722-b of the County Law to provide a means whereby assigned counsel may challenge as inadequate the amount of compensation and expenses fixed by a court for legal services rendered to an indigent defendant. Our proposal would also permit the municipality charged with paying such compensation and expenses to challenge the amount as excessive.

Under this amendment, challenges shall be made by timely application to the Appellate Division of the judicial department embracing the county in which the legal services were rendered. No such application may be made, however,

where it challenges an order of either the Appellate Division or the Court of Appeals which fixes compensation and expenses for assigned counsel.

At present, there is no statutory authority for judicial review of an order fixing compensation made under Article 18-B. Where assigned counsel feels such an order to be inadequate or, conversely, where the municipality obligated to pay under such an order feels it to be excessive, the only recourse appears to be appeal to administrative authorities of the court system. *Matter of Werfel v. Agresta*, 36 N.Y.2d 624 (1975).

This measure supplies a specific statutory procedure for review of orders fixing compensation for assigned counsel. It gives the Appellate Divisions jurisdiction to conduct such reviews, recognizing that such responsibility will complement established powers of the Appellate Divisions to regulate the practice of law and oversee implementation of assigned counsel plans under Article 18-B.

IV. Conclusion

The Committee will continue to meet regularly to study and discuss all significant proposals affecting criminal law and procedure. We are considering extensive revisions to the grand jury system, the development of procedures for obtaining nontestimonial evidence before the commencement of a criminal action, and the creation of sentencing guidelines. We express our gratitude to the Judicial Conference, the Administrative Board and the Office of Court Administration for their support in achieving our shared objective of improving the criminal law.

Respectfully submitted,

THE ADVISORY COMMITTEE ON CRIMINAL LAW AND PROCEDURE

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APPENDIX OF ACTS

AN ACT to amend the criminal procedure law, in relation to the adoption of forms for use in the criminal courts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The criminal procedure law is hereby amended by adding a new section 1.15 to read as follows:

§1.15. Chief administrator to prescribe forms. The chief administrator of the courts shall have the power to adopt, amend and rescind forms for the efficient and just administration of this chapter.

§2. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to grand jury rules of evidence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 190.30 of the criminal procedure law is hereby amended by adding thereto a new subdivision seven to read as follows:

7. Whenever a defendant has been held by a local criminal court for the action of the grand jury after a hearing conducted pursuant to section 180.70, a transcript of testimony taken at that hearing may be received in the grand jury proceeding against the defendant as evidence of the facts stated therein. Nothing in this subdivision shall be construed to limit the power of the grand jury to cause any person to be called as a witness pursuant to subdivision three of section 190.50.

§2. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to making it clear that a grand jury witness does not receive immunity for the giving of evidence he would not be privileged to withhold

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 190.40 of the criminal procedure law, paragraph (c) of subdivision two thereof as added by chapter four hundred fifty-four of the laws of nineteen hundred seventy-five, is amended to read as follows:

§190.40 Grand Jury; witnesses, compulsion of evidence and immunity.

1. Every witness in a grand jury proceeding must give evidence legally requested of him regardless of any protest or belief on his part that it may tend to incriminate him.

2. [A witness who gives evidence in a grand jury proceeding] *In a grand jury proceeding, a witness who is required to give evidence under subdivision one of this section, which he would otherwise be entitled to withhold by virtue of the privilege against compelled self-incrimination,* receives immunity unless:

(a) He has effectively waived such immunity pursuant to section 190.45; or

(b) Such evidence is not responsive to any inquiry and is gratuitously given or volunteered by the witness with knowledge that it is not responsive.

[(c) The evidence given by the witness consists only of books, papers, records or other physical evidence of an enterprise, as defined in subdivision one of section 175.00 of the penal law, the production of which is required by a subpoena duces tecum, and the witness does not possess a privilege against self-incrimination with respect to the production of such evidence. Any further evidence given by the witness entitles the witness to immunity except as provided in subparagraph (a) and (b) of this subdivision.]

§2. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to disclosing to defendant who is to testify before the grand jury his prior statements

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraphs (b) and (c) of subdivision five of section 190.50 of the criminal procedure law are hereby amended to read as follows:

(b) Upon service upon the district attorney of a notice requesting appearance before a grand jury pursuant to paragraph (a), the district attorney must notify the foreman of the grand jury of such request, and must subsequently serve upon the applicant, at the address specified by him, a notice that he will be heard by the grand jury at a given time and place. Upon appearing at such time and place, and upon signing and submitting to the grand jury a waiver of immunity pursuant to section 190.45, such person *(i) shall, upon demend made to the district attorney, be entitled to a copy of any written, recorded or oral statement he has made, other than in the course of the criminal transaction, to a public servant engaged in law enforcement activity or to a person then acting under his direction or in cooperation with him and (ii)* must be permitted to testify before the grand jury and to give any relevant and competent evidence concerning the case under consideration. Upon giving such evidence, he is subject to examination by the people.

(c) Any indictment or direction to file a prosecutor's information obtained or filed in violation of the provisions of paragraph (a) or (b) is invalid and, upon a motion made pursuant to section 170.50 or section 210.20, must be dismissed; provided that a motion based upon such ground be made not more than five days after the defendant has been arraigned upon the indictment or, as the case may be, upon the prosecutor's information resulting from the grand jury's direction to file the same. If the contention is not so asserted in timely fashion, it is waived and the indictment or prosecutor's information may not thereafter be challenged on such ground. *Provided further, that the indictment or prosecutor's information may not be dismissed where the court finds that the district attorney's failure to comply with subparagraph (i) of paragraph (b) of this subdivision was inadvertent.*

§2. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to the joinder of crimes in indictment of juvenile offender

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section 190.71 of the criminal procedure law is REPEALED and subdivisions (b), (c), and (d) of such section are relettered subdivisions (a), (b), and (c) respectively.

§2. Section 200.20 of such law is amended by adding thereto a new subdivision, to be subdivision six, to read as follows:

6. Where an indictment charges at least one offense against a defendant who was under the age of sixteen at the time of the commission of the crime and who did not lack criminal responsibility for such crime by reason of infancy, the indictment may, in addition, charge in separate counts, one or more other offenses for which such person would not have been criminally responsible by reason of infancy, if the offense for which the defendant is criminally responsible and the one or more other offenses for which he would not have been criminally responsible by reason of infancy are based upon the same act or upon the same criminal transaction, as that term is defined in subdivision two of section 40.10 of this chapter.

§3. This act shall take effect immediately and shall apply to offenses committed on or after the effective date of this act.

AN ACT to amend the criminal procedure law, in relation to the discovery of nontestimonial evidence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 240.40 of the criminal procedure law, added by chapter four hundred twelve of the laws of nineteen hundred seventy-nine, is amended to read as follows:

Note. CPL 190.71, repealed by this act, specifying the offenses a juvenile may be indicted for, is redundant and thus annecessary in light of the Penal Law's definition of infancy (PL 30.30), and, unless modified, would conflict with the object of this act as specified in section two of this act.

2. Upon motion of the prosecutor, and subject to constitutional limitation, *(a)* the court in which an indictment, superior court information, prosecutor's information or information is pending [; (a)] must order discovery as to any property not disclosed upon a demand pursuant to section 240.30, if it finds that the defendant's refusal to disclose such material is not justified, and (b) *the court in which an indictment, superior court information, prosecutor's information, felony complaint or misdemeanor complaint is pending* may order the defendant to provide non-testimonial evidence. Such order may, among other things, require the defendant to:

(i) Appear in a line-up;

(ii) Speak for identification by witness or potential witness;

(iii) Be fingerprinted;

(iv) Pose for photographs not involving reenactment of an event;

(v) Permit the taking of samples of blood, hair or other materials from his body in a manner not involving an unreasonable intrusion thereof or a risk of serious physical injury thereto;

(vi) Provide specimens of his handwriting;

(vii) Submit to a reasonable physical or medical inspection of his body.

This subdivision shall not be construed to limit, expand, or otherwise affect the issuance of a similar court order, as may be authorized by law, before the filing of an accusatory instrument consistent with such rights as the defendant may derive from the constitution of this state or of the United States.

§2. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to the examination of prospective jurors

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions one and two of section 270.15 of the criminal procedure law are hereby amended to read as follows:

1. If no challenge to the panel is made as prescribed by section 270.10, or if such challenge is made and disallowed, the court must direct that the names of twelve members of the panel be drawn and called as prescribed by the judiciary law. Such persons must take their places in the jury box and must be immediately sworn to answer truthfully questions asked them relative to their qualifications to serve as jurors in the action. The court must [permit both parties, commencing with the people, to] examine the prospective jurors, individually or collectively, regarding their qualifications to serve as jurors. *In conducting this examination the court must ask the prospective jurors any questions submitted to the court in writing by either party prior to trial or the court may permit counsel to ask such questions. The court must also ask any additional questions submitted by either party, orally or in writing, during the course of the examination or the court may permit counsel to ask such questions.* The scope of the examination is within the discretion of the court, and the court may disallow [statements or] questions [by] *of* either party that are irrelevant to the examination or repetitious.

2. Upon the completion of such examination [by both parties], each *party*, commencing with the people, may challenge a prospective juror for cause, as prescribed by section 270.20. If such challenge is allowed, the prospective juror must be excluded from service. After both parties have had an opportunity to challenge for cause, the court must permit them to peremptorily challenge any remaining prospective juror, as prescribed by section 270.25, and such juror must be excluded from service. The people must exercise their peremptory challenges first and may not, after the defendant has exercised his peremptory challenges, make such a challenge to any remaining prospective juror who is then in the jury box. The prospective jurors who are not excluded from service must retain their place in the jury box and must be immediately sworn as trial jurors. They must be sworn to try the action in a just and impartial manner, to the best of their judgment, and to render a verdict according to the law and the evidence.

§2. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to a trial order of dismissal

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section 290.10 of the criminal procedure law is amended to read as follows:

1. At the conclusion of the people's case or at the conclusion of all the evidence, the court may, except as provided in subdivision two, upon motion of the defendant, *(a)* issue a "trial order of dismissal," dismissing any count of an indictment upon the ground that the trial evidence is not legally sufficient to establish the offense charged therein or any lesser included offense, *or (b) reserve decision on the motion until after the verdict has been rendered and accepted by the court. Where the court has reserved decision, and the jury thereafter renders a verdict of guilty, the court shall proceed to determine the motion upon such evidence as it would have been authorized to consider upon the motion had the court not reserved decision. If the court determines that such motion should have been granted upon the ground specified in paragraph (a) herein, it shall enter an order both setting aside the verdict and dismissing any count of the indictment upon such ground.*

§2. Subdivision two of section 450.20 of such law is hereby amended to read as follows:

2. [A trial order of dismissal] *An order setting aside a verdict and dismissing an accusatory instrument or a count thereof,* entered pursuant to section [290.10] *290.10(1)(b)* or 360.40;

3. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to information given to a deliberating jury

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 310.30 of the criminal procedure law is hereby amended to read as follows:

§310.30 Jury deliberation; request for information. At any time during its deliberation, the jury may request the court for further instruction or information with respect to the law, with respect to the content or substance of any trial evidence, or with respect to any other matter pertinent to the jury's consideration of the case. Upon such a request, the court must direct that the jury be returned to the courtroom and, after notice to the people and counsel for the defendant, and in the presence of the defendant, must give such requested information or instruction as the court deems proper. *With the consent of the parties and upon the request of the jury for further instruction with respect to a statute, the court may also give to the jury copies of the text of any statute which, in its discretion, the court deems proper.*

§2. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to appeals from sentence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions one and three of section 450.30 of the criminal procedure law is amended to read as follows:

1. An appeal by the defendant from a sentence, as authorized by subdivision two of section 450.10, may be based upon the ground that such sentence either was (a) invalid as a matter of law, or (b) [harsh or excessive] *inappropriate*. A sentence is invalid as a matter of law not only when the terms thereof are unauthorized but also when it is based upon an erroneous determination that the defendant had a previous valid conviction for an offense or, in the case of a resentence following a revocation of a sentence of probation or conditional discharge, upon an improper revocation of such original sentence.

3. An appeal from a sentence, within the meaning of this section and sections 450.10 and 450.20, means an appeal from either the sentence originally imposed or from a resentence following an order vacating the original sentence. For purposes of appeal, the judgment consists of the conviction and the original sentence only, and when a resentence occurs more than thirty days after the original sentence, a defendant who has not previously filed a notice of appeal from the judgment may not appeal from the judgment, but only from the sentence. *Upon appeal from a sentence pursuant to subdivision two of section 450.10, review of such sentence shall be based upon the record before the criminal court.*

§2. Paragraph (c) of subdivision two of section 470.15 of the criminal procedure law is amended to read as follows:

(c) Upon a determination that a sentence imposed upon a valid conviction is illegal or [unduly harsh or severe] *inappropriate*, the court may modify the judgment by reversing it with respect to the sentence and by otherwise affirming it.

§3. Paragraph (b) of subdivision 6 of section 470.15 of the criminal procedure law is amended to read as follows:

(b) That a sentence, though legal, was [unduly harsh or excessive] *inappropriate*.

§4. Subdivision six of section 470.20 of the criminal procedure law is amended to read as follows:

6. Upon modifying a judgment or reversing a sentence as a matter of discretion in the interest of justice upon the ground that the sentence is [unduly harsh or severe] *inappropriate*, the court must itself impose some legally authorized [lesser] *appropriate* sentence.

§5. This act shall take effect October first, nineteen hundred and eighty.

AN ACT to amend the criminal procedure law, in relation to conditional examination of witnesses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 660.10 of the criminal procedure law is amended to read as follows:

§660.10 Examination of witnesses conditionally; in general.

After a defendant has been arraigned upon an accusatory instrument, and under circumstances prescribed in this article, a criminal court may, upon application of either the people or a defendant, order that a witness or prospective witness in the action be examined conditionally under oath in order that such testimony may be received [and read] into evidence at subsequent proceedings in or related to the action.

§2. Section 660.20 of such law is amended to read as follows:

§660.20 Examination of witnesses conditionally; grounds for order.

An order directing examination of a witness conditionally must be based upon the [ground] *grounds* that there is reasonable cause to believe that such witness [: 1. Possesses]

possesses information material to the criminal action or proceeding in issue[;] , and *that:*

[2. Will] *1. the witness will* not be amenable or responsive to legal process or available as a witness at a time when his testimony will be sought, either because he is [:

(a) About] *about* to leave the state and not return for a substantial period of time[;] or *he is*

[(b) Physically] *physically* ill or incapacitated*; or*

2. there has been an attempt to induce such person to absent himself from, or otherwise to avoid or seek to avoid appearing or testifying at such action or proceeding.

§3. Subdivision two of section 660.40 of such law is renumbered subdivision three of such section, and such section is amended by adding a new subdivision two to read as follows:

2. The application may also contain a request that the examination, in addition to its being recorded in the same manner as would be required were the witness testifying at trial, also be recorded by videotape or other electronic, photographic or mechanical method approved by and subject to the rules of the Chief Judge.

§4. Subdivision three of section 660.50 of such law, is renumbered to be subdivision four, and such section is amended by adding a new subdivision three to read as follows:

3. The court must order that the examination be recorded in the same manner as would be required were the witness testifying at trial, and the court may, in addition, order that the examination also be recorded by videotape or other electronic, photographic or mechanical method approved by and subject to the rules of the Chief Judge.

§5. Section 660.60 of such law is amended to read as follows:

§660.60 Examination of witnesses conditionally; the examination proceeding.

1. The examination proceeding must be conducted [and recorded] in the same manner as would be required were the witness testifying at a trial, *and must be recorded in such fashion as the court has directed pursuant to subdivision three of section 660.50.* The witness must testify under oath. The applicant party must first examine the witness and the respondent party may then cross-examine him, with each party entitled to register objections and to receive rulings of the court thereon.

2. Upon conclusion of the examination, a transcript *and any additional recording* thereof must be certified and filed with the court which ordered the examination.

§6. Subdivision one of section 670.10 of such law is amended to read as follows:

1. Under circumstances prescribed in this article, testimony given by a witness at (a) a *hearing or* trial of an accusatory instrument, or (b) [a hearing upon a felony complaint conducted pursuant to section 180.60 or upon a misdemeanor charge pursuant to section 170.75, or (c)] an examination of such witness conditionally, conducted pursuant to article six hundred sixty, may, where otherwise admissible, be received [and read] into evidence at a subsequent proceeding in or relating to the action involved when at the time of such subsequent proceeding the witness is unable to attend the same by reason of death, illness or incapacity, or cannot with due diligence be found, or is outside the state or in federal custody and cannot with due diligence be brought before the court. *Upon being received into evidence such testimony may be read and any recording thereof played.*

§7. Subdivision one of section 670.20 of such law is amended to read as follows:

1. In any criminal action or proceeding other than a grand jury proceeding, a party thereto who desires to offer in evidence testimony of a witness given in a previous action or proceeding as provided in section 670.10, must so move, either in writing or orally in open court, and must submit to the court, and serve a copy thereof upon the adverse party, an authenticated transcript of the testimony *and any additional recording thereof* sought to be introduced. Such moving party must further state facts showing that personal attendance of the witness in question is precluded by some factor specified in subdivision one of section 670.10. In determining the motion, the court, with opportunity for both parties to be heard, must make inquiry and conduct a hearing to determine whether personal attendance of the witness is so precluded. If the court determines that such is the case and grants the motion, the moving party may introduce the transcript in evidence and read into evidence the testimony contained therein. In such case, the adverse party may register any objection or protest thereto that he would be entitled to register were the witness testifying in person, and the court must rule thereon.

§8. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to a hearing upon a motion to suppress evidence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision three of section 710.40 of the criminal procedure law is hereby amended to read as follows:

3. When the motion is made before trial, the trial may not be commenced until determination of the motion, *unless the court, with the consent of the parties, rules that a hearing to be held upon the motion shall be conducted during the trial.*

§2. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to a motion to suppress evidence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (b) of subdivision two of section 710.60 of the criminal procedure law is hereby amended to read as follows:

(b) The sworn allegations of fact do not as a matter of law support the ground alleged [; except that this paragraph does not apply where the motion is based upon the ground specified in subdivision three of section 710.20].

§2. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to a waiver of appeal of a denial of a motion to suppress evidence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 710.70 of the criminal procedure law is hereby amended to read as follows:

2. An order finally denying a motion to suppress evidence may be reviewed upon an appeal from an ensuing judgment of conviction notwithstanding the fact that such judgment is entered upon a plea of guilty, *unless, in entering a plea of guilty, the defendant shall, in open court, waive this right to such review on appeal.*

§2. This act shall take effect immediately.

AN ACT to amend the county law, in relation to compensation and reimbursement of counsel representing indigent defendants

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seven hundred twenty-two-b of the county law, as amended by chapter seven hundred of the laws of nineteen hundred seventy-eight, is amended to read as follows:

§722-b. Compensation and reimbursement for representation. All counsel assigned in accordance with a plan of a bar association conforming to the requirements of section seven hundred twenty-two whereby the services of private counsel are rotated and coordinated by an administrator shall at the conclusion of the representation receive compensation at a rate not exceeding twenty-five dollars per hour for time expended in court or before a magistrate, judge or justice, and fifteen dollars per hour for time reasonably expended out of court, and shall receive reimbursement for expenses reasonably incurred. Where a defendant is charged with a crime which may be punishable by death compensation shall not exceed one thousand five hundred dollars where one counsel has been assigned, and shall not exceed two thousand dollars where two or more counsel have been assigned. Where a defendant is charged with one or more other felonies, compensation shall not exceed seven hundred fifty dollars. Where a defendant is charged with one or more other crimes, compensation shall not exceed five hundred dollars. For representation pursuant to the provisions of section two hundred sixty-two of the family court act or section four hundred seven of the surrogate's court procedure act, compensation shall not exceed five hundred dollars. For representation upon the hearing of a motion for a writ of error coram nobis or a motion to vacate judgment or set aside sentence made pursuant to article four hundred forty of the criminal procedure law, compensation shall not exceed five hundred dollars. For representation in the court of appeals on an appeal from a judgment of death, compensation shall not exceed one thousand five hundred dollars where one counsel has been assigned, and shall not exceed two thousand dollars where two or more counsel have been assigned. For representation in an appellate court on an appeal from a judgment of conviction for one or more other felonies, compensation shall not exceed seven hundred fifty dollars. For representation in an appellate court on an appeal in any other criminal action or proceeding, or on any appeal described in section eleven hundred twenty of the family court act or section four hundred seven of the surrogate's court procedure act, compensation shall not exceed five hundred dollars.

For representation on an appeal, compensation and reimbursement shall be fixed by the appellate court. For all other representation, compensation and reimbursement shall be fixed by the court where judgment of conviction or acquittal or order of dismissal was entered. In extraordinary circumstances the trial court may provide for compensation in excess of the foregoing limits and for payment of compensation and reimbursement for expenses before the completion of the representation.

Each claim for compensation and reimbursement shall be supported by a sworn statement specifying the time expended, services rendered, expenses incurred and reimbursement or compensation applied for or received in the same case from any other source.

Where the amount of compensation and reimbursement for counsel assigned pursuant to this article has been fixed by a court other than the appellate division or the court of appeals, such assigned counsel or the county attorney for the county responsible for paying such amount or, where the city of New York is responsible for paying such amount, the corporation counsel of such city, may, within ten days after receiving notice thereof, apply to the appellate division in the judicial department embracing the county in which the services were rendered, for modification of this amount on grounds that it is inadequate or excessive, as the case may be.

No counsel assigned hereunder shall seek or accept any fee for representing the party for whom he is assigned without approval of the court as herein provided.

§2. This act shall take effect thirty days after it becomes law; provided, however, no party may make application to the appellate division to modify the amount of compensation and reimbursement fixed by the court for assigned counsel, pursuant to section seven hundred twenty-two-b of the county law as amended by section one of this act, unless that party first received notice on or after such effective date that such amount had been fixed by the court.

Annual Report

to the

Judicial Conference

and the

Chief Administrator of the Courts of the State of New York

by the

Family Court Advisory and Rules Committee

January 1980

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The Family Court Advisory and Rules Committee, designated and appointed pursuant to section 212 of the Family Court Act and section 1(b)(x) of the Chief Judge's Administrative Delegation effective April 1, 1978, continued during the year 1979 to review legislation affecting Family Court proceedings, to draft rules affecting Family Court proceedings for consideration by the Chief Judge and the Chief Administrator of the Courts and to review and bring up to date the official Family Court forms, as required.

The members of the Committee were Family Court Judges Donald J. Corbett, Jr., who served as Chairman, Arthur J. Abrams, Gene L. Catena, Daniel J. Donahoe, Hugh Ross Elwyn, William L. Kellick, Jr., Shirley Wohl Kram, Howard A. Levine, Saul Moskoff, Paul F. Murphy, Richard M. Palmer, Aileen Haas Schwartz, Jack Turret, Robert H. Wagner and Joseph B. Williams. Non-voting members of the Committee were Richard J. Comiskey, Esq., and William G. O'Brien, Esq. Frank Boccio, Esq. served as consultant.

Legislation

The Committee, under the direction of Judge Howard A. Levine, who chaired the Subcommittee on Legislation, continued its legislative review of all bills introduced in the Legislature affecting Family Court proceedings and family law. In the past year, seventy-two memorandums commenting on legislation were filed in the Legislature. Among this year's legislative proposals which could have major impact on Family Court proceedings, analyzed and commented upon by the Committee, is a proposed Code of Juvenile Procedure which represents a major attempt to codify procedure in juvenile delinquency proceedings in a manner similar to the Criminal Procedure Law.

In addition, the members of the Committee assisted the Office of Court Administration in the drafting of a number of bills to be introduced at the request of that Office. Of these, four measures were enacted into law in 1979. They are as follows:

Chapter 73 This chapter amends section 758-a of the Family Court Act to eliminate the requirement of court rules defining terms and conditions of restitution where it is one of the provisions in the order of disposition. It also eliminates the responsibility of the Office of Court Administration to approve rules and regulations of an agency supervising a program of restitution. The measure went into effect on July 28, 1979.

Chapter 106 This measure amends section 525 of the Family Court Act to increase the period pertaining to service of a summons and petition in paternity proceedings, from seven to eight days prior to the date set for appearance. This chapter became effective on May 12, 1979.

Chapter 121 This chapter amends section 235 of the Domestic Relations Law to permit public access to matrimonial records older than one hundred years. This measure became effective on January 1, 1980.

Chapter 122 This chapter amends section 235 of the Domestic Relations Law to permit an attorney representing a party in a matrimonial proceeding to obtain copies of the papers in prior matrimonial actions whether or not the attorney was the attorney of record in such earlier proceedings. This chapter became effective on May 21, 1979.

In addition to these measures, the following bills drafted by the Committee were offered for introduction by the Office of Court Administration.

Assembly Bill 3187-A This measure would eliminate the residual Family Court jurisdiction over the special education needs of certain handicapped children, transferring such jurisdiction entirely to the school district of the child's residence. Subdivision (b) of section 232 of the Family Court Act would also be amended by this bill to provide that the Family Court would, however, retain its present power to order services for a child in need of medical, surgical, therapeutic, or hospital care. It is the Committee's view and that of the Office of Court Administration, that the full responsibility for determining and providing for the educational needs of all handicapped children, whether or not of school age, and whether or not school is in session, appropriately rests with local school districts. This bill has been introduced by Member of Assembly Stavisky.

Senate Bill 2208 This measure would amend subdivision (b) of section 245 of the Family Court Act to bring the rate of compensation of law guardians in Family Court proceedings into parity with that of assigned counsel for adults, namely $15 per hour for office work and $25 per hour for court time. It is the Committee's view, shared by the Office of Court Administration, that the present disparity is inequitable and counter-productive. This bill was introduced by Senator Barclay.

Assembly Bill 7613 This bill would amend Article 8 of the Family Court Act which relates to family offenses proceedings to provide an explicit procedure for the enforcement of orders of protection. This measure would also amend section 751 of the Judiciary Law, to alter the present permissible period of commitment for violation of an order of protection issued in a criminal court pursuant to section 530.11 of the Criminal Procedure Law, from thirty days to six months. This change would conform the Judiciary Law to section 846 of the Family Court Act which governs violation of identical orders of protection issued in Family Court family offense proceedings. This bill was introduced by then Member of Assembly Cooperman.

Senate Bill 5096 This bill would amend subdivision three of section 724-b of the Family Court Act to clarify the responsibilities for notification to the Division of Criminal Justice Services of the need to destroy the fingerprints of certain juveniles. This bill was introduced by Senator Halperin.

The Committee is now in the process of discussing several additional legislative proposals to be recommended for consideration by the Office of Court Administration for introduction in this year's legislative sessions. Among those is a bill to clarify the present procedure for extension of placement.

Rules

The Committee, under the direction of Judge Aileen Haas Schwartz, who chairs the Subcommittee on Rules, drafted two rules which were promulgated in 1979. One of these was an Appellate Division rule relating to attorney's conduct requiring the filing by an attorney in every adoption proceeding, of an affidavit disclosing fees or compensation received or given by the attorney in connection with the adoption. The affidavit must be filed in the adoption proceeding and, centrally, at the Office of Court Administration. Rules of this nature have been adopted by the Appellate Division of each of the four judicial departments. Their effective dates and citations are: 22 NYCRR §603.23 (First Department), February 15, 1979; 22 NYCRR §691.23 (Second Department), January 1, 1979; 22 NYCRR §806.13 (Third Department), January 10, 1979; and 22 NYCRR §1022.32 (Fourth Department), May 31, 1979.

The Committee also drafted a rule complying with sections 243 and 246 of the Family Court Act, which sets standards for panel plans applicable to the designation of lawyers who may be appointed as law guardians to represent minors in Family Court proceedings. These new standards (copy attached) were promulgated by the Chief Judge of the State of New York, with the approval of the Court of Appeals on November 13, 1979 and enunciate statewide criteria for such panel plans.

The Committee is now in the process of reviewing Part 34 of the Rules of the Chief Judge which pertain to the use of hearing examiners in support cases in an effort to determine what changes, if any, may be required in this procedure. These rules had been drafted with the assistance of the committee members and went into effect in January, 1978.

Having, in 1976, completed the first comprehensive review and revision of Uniform Family Court Rules undertaken since 1962, (Part 2500 of 22 NYCRR), the Committee will this year again examine the Uniform Rules in the light of subsequent legislation and constitutional changes rendering certain portions obsolete, and propose the necessary changes.

Forms

In December 1978, the Subcommittee on Forms, under the chairmanship of Judge Gene L. Catena, completed the first comprehensive revision since 1962, of approximately 200 official forms used in Family Court.

The Committee is continuing to revise and add to these forms as the need has arisen. Forms for use in support proceedings have been amended to reflect the legislative changes in section 49-b of the Personal Property Law, relating to wage deduction orders.

The Committee has also drafted a set of forms to implement newly-enacted section 748-a of the Family Court Act, which prescribes a procedure for the determination of the capacity of a juvenile to proceed in a juvenile delinquency proceeding. The Committee is also reviewing the adoption forms now in use to revise them in light of recent legislative and decisional changes.

APPENDIX

Administrative Standards

Pursuant to Article VI, section 28 of the State Constitution, the Chief Judge of the Court of Appeals, with the approval of the Court of Appeals, hereby promulgates the following standards, developed in consultation with the Administrative Board of the Courts, to comply with the requirements of sections 243 and 246 of the Family Court Act.

The purpose of these standards is to regulate the designation of lawyers who may be appointed law guardians to represent minors in Family Court proceedings.

1. Each of the Appellate Divisions shall by January 1, 1980 promulgate rules pertaining to the establishment and operation of a panel of lawyers qualified for assignment as law guardians to represent minors in proceedings in Family Court.

2. Each panel plan, which consists of the rules so promulgated, may provide for the creation of a departmental advisory committee, whose membership may be representative of the bar associations, law school faculties, and the lay public, among others.

3. Each panel plan shall contain standards and administrative procedures for continuing evaluation of the panel plan and panel lawyers.

4. Each panel plan shall set forth standards for appointment to the panel which may include litigation experience in matters within the jurisdiction of the Family Court, participation in a panel plan training program, or other qualifying criteria.

5. Each panel plan shall set forth standards for removal from the panel and provide a removal process or mechanism.

6. Each panel plan shall provide for a continuing program of training and education for members of the panel.

7. Annual reports on the operation of the panels shall be filed by the Appellate Divisions with the Chief Administrator of the Courts, commencing January 31, 1981.

APPENDIX

Review of Existing Procedures to Determine Character and Fitness for Admission to the New York Bar, and Recommended Changes

By

The Committee to Regularize Bar Admission Procedures*

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*Appointec by the Administrative Board of the Judicial Conference of the State of New York (now the Administrative Board of the Courts).

I. Introductory Statement

A comprehensive report jointly submitted by committees of the Association of the Bar of the City of New York and the New York State Bar Association concerned with the general subject of admission to the Bar has challenged the utility and fairness of existing procedures for determining the "character and fitness" of applicants for admission to the New York Bar. (See *The Record*, Association of the Bar of the City of New York, Jan.–Feb. 1978, pp. 20 *et seq.*). That joint report (hereinafter referred to as "Bar Association Report") has been carefully considered by the Committee to Regularize Bar Admission Procedures (hereinafter referred to as the "Committee to Regularize"), as part of an intensive review of the entire subject of character and fitness determinations.

The Committee to Regularize was established in 1972 by the Administrative Board of the Judicial Conference for the primary purpose of reviewing, simplifying and standardizing the different procedures and practices followed in the several departments of the state in relation to applications for admission to the Bar. One of its initial accomplishments consisted of simplifying and standardizing such procedures and practices by formulating standard forms of questionnaire, instruction sheets and affidavits for use throughout the state in connection with applications for admission to the Bar, in place of the diverse forms previously used for that purpose in the several departments. All four Appellate Divisions adopted such standard forms and committed themselves not to make any changes therein without first consulting each other, preferably through the agency of the Committee to Regularize.

The roster of the Committee to Regularize has consisted, since its creation, of a Judge of the Court of Appeals, [1] an Associate Justice from each of the four Appellate Divisions, the Clerk of the Court of Appeals, the Chairman of the State Board of Law Examiners and the personnel from the several departments charged with the function of administering character and fitness determinations.

The Committee to Regularize has been aided in its review of the Bar Association Report by comments and suggestions invited by it from other Justices of the Appellate Divisions and from members of the various Committees on Character and Fitness.

II. General Thrust of the Bar Associations' Recommendations

As mandated by statute (Judiciary Law, §90), every applicant for admission to the Bar, in addition to meeting the applicable requirements with respect to passing the bar examination, must also satisfy the Appellate Division that he "possesses the character and general fitness requisite for an attorney and counsellor-at-law." The term "character and general fitness" has been interpreted as referring to the applicant's "moral character and individual integrity" (*Matter of Shaikh*, 39 N.Y.2d 676, 681) and as requiring a showing that he has "a fair private and professional character" (*Matter of Rouss*, 221 N.Y. 81, 84).

Each of the four Appellate Divisions has delegated the initial task of making recommendations with respect to the applicants' character and fitness to a Committee or Committees on Character and Fitness (hereinafter referred to as "Character Committees"), appointed by it and composed of practicing attorneys (CPLR 9401). Through its representation on such committees, the legal profession directly participates in the admission process. See *Schware v. Board of Bar Examiners*, 353 U.S. 232, 248 (concurring opinion of Frankfurter, J.). As was pointed out in *Willner v. Committee on Character & Fitness*, 373 U.S. 96, 107 (concurring opinion of Goldberg, J.):

> "The New York admissions procedures ... are fairly characteristic of those prevalent throughout the country. In general, they contemplate that an applicant for admission who has successfully passed the bar examination will file an application before a court-appointed committee of lawyers which conducts an inquiry into his moral character and on the basis thereof recommends the grant or denial of admission by the court. Committee proceedings are often informal and, for the protection of the candidate, are generally not publicized. Committee members are usually unpaid and serve in fulfillment of their obligation to the profession and as officers of the court. They perform an indispensable and very often thankless task. While the vast majority of candidates are approved without difficulty, in exceptional cases, ... either information supplied by the applicant himself or material developed in the course of the committee's investigation gives rise to questions concerning the applicant's moral character."

The character investigation process commences as soon as the applicant's eligibility for admission has been certified by the State Board of Law Examiners. The first step consists of the applicant's filling out a prescribed questionnaire and providing affidavits, college and law school certificates, and other materials, in accordance with an instruction sheet which accompanies the questionnaire. Then, following preliminary investigation by the Character Committee's personnel, the applicant is interviewed by one or more members of that committee. Standard forms of questionnaire, instruction sheet and affidavits, prepared by the Committee to Regularize, are now used in all four departments of the state, with openly minor differences to meet the special needs of some particular department. The Committee to Regularize has also attempted to achieve greater uniformity among the four departments in the practices and procedures followed by the several Character Committees.

[1] Judge Hugh R. Jones of the Court of Appeals, a member of the Committee to Regularize, did not participate in the consideration or drafting of this report.

The basic thrust of the Bar Association Report is to suggest that because only a very small percentage of the character applications processed present "problem areas" and the percentage of applicants actually denied admission is even smaller, there is no justification for the elaborate machinery now in use or the substantial expenditure of time and effort required of the applicants. The Report would accordingly "streamline" the procedure so as to concentrate attention only on the small number of "problem cases". The questionnaire would be shortened and many of the questions presently asked would be modified or deleted. The requirement of affidavits of good character would be completely eliminated and there would no longer be any personal interviews of any applicants except in "problem cases". Further, in place of Character Committees operating under the supervision of the respective Appellate Divisions, as at present, the responsibility for character investigations would be vested in the Judicial Conference and apparently in a single state-wide Character Committee to be appointed by it. There would also be other changes alleged to be required in the interests of fairness. Each of these proposals is hereinafter separately considered.

III. Bar Associations' Specific Proposals

A. Proposal to Transfer Responsibility for Administering Character Investigations from Appellate Divisions to Judicial Conference

In our opinion, there is no need or warrant for attempting to centralize the responsibility for administering character investigations in the Judicial Conference, in place of the Appellate Divisions, as proposed by the Bar Association Report (*The Record, op. cit.*, pp. 42-3), and any such change would indeed have serious drawbacks. The only purported justification for this drastic transfer of responsibility is the assertion that there is presently a lack of uniformity in the procedures followed in the several departments. However, as noted, substantial progress has been, and is continually being, made, under the aegis of the Committee to Regularize, toward eliminating unnecessary differences in the practices and procedures followed by the various Character Committees, and the differences that do exist would appear to be such as are warranted by specific local conditions and would not justify scrapping the entire present setup.

Indeed, it is doubtful whether the Bar Associations' proposal would, in actual practice, result in the centralization sought to be achieved. Thus, unless the entire investigative process were to be drastically altered by eliminating personal interviews in all but a small number of selected cases, a single state-wide Character Committee would be required to operate through sub-committees and branch offices in each of the four departments for the convenience of applicants, in the same manner that the existing Character Committees now do.

Furthermore, because of the privileged position occupied by attorneys as "officers of the court", and the concomitant strict standards to which they are subject, it has traditionally been regarded as the function and responsibility of the courts to admit only those who meet those standards and to discipline those who fail to live up to them in practice. See *Matter of Rouss, supra*, 221 N.Y. at 84; *People ex rel. Karlin* v. *Culkin*, 248 N.Y. 465, 470-471; *Matter of Cohen*, 7 N.Y.2d 488, 495-6; *Schware v. Board of Bar Examiners, supra*, 353 U.S. at 248 (concurring opinion of Frankfurter, J.).

No basis or warrant has been shown for the proposal to divest the courts — specifically the Appellate Divisions — of their function and responsibility in that regard in relation to the admission process. The recommendation to vest that function and responsibility, instead, in an administrative agency such as the Judicial Conference appears to suggest that the admission of attorneys may be handled with an impersonal bureaucratic approach. Manifestly, however, membership in the Bar "is a privilege burdened with conditions" and may not be regarded as akin merely to a calling for "private gain". See *People ex rel Karlin v. Culkin, supra*, 248 N.Y. at 470. For good reasons, the tradition of admission to the Bar has required the presence and action of a court.

B. Proposal to Eliminate Personal Interviews Except in "Problem Cases"

The primary justification urged by the Bar Association Report for eliminating the practice of personal interviews in all but "problem cases" *i.* that such interviews are, for the most part, of a haphazard and perfunctory nature which is unnecessarily time-consuming for the applicants and serves no useful purpose. (*The Record, op. cit.*, pp. 33-6).

In our opinion, however, it would be an almost impossible task for anyone to form a judgment on the character and fitness of a particular individual without actually seeing and speaking with that individual. Indeed, interviews lend an extra dimension to the evaluation process when conducted, as at present, by experienced practicing attorneys specially designated for that purpose by the Appellate Divisions.

Further, there appear to be far more so-called "problem cases" than the extremely small number suggested by the Bar Association Report, and the "problem" may often become apparent only through an interview. Thus, there have been many instances in the experience of those charged with administering the character investigation machinery, in which some troublesome problem not suggested by the questionnaire has been revealed by further inquiry at a personal interview. That has been especially so in cases involving problems of a mental or emotional nature.

In addition, the requirement of a personal interview serves as a deterrent to dishonesty or lack of candor on the part of an applicant in his answers to the questionnaire, since he may well be apprehensive about what may be revealed at a personal interview. Indeed there have been a number of instances in which applicants have abandoned their applications after filing their questionnaires, without appearing for personal interviews, apparently because of fear that the interview might bring to light unsavory incidents in their past which have been omitted or glossed over in the questionnaire.

C. Proposal to Dispense with Character Affidavits

The Bar Association Report also proposes to dispense with the requirements that the applicant furnish three affidavits of good moral character from "reputable persons", as well as an affidavit from each attorney, law firm or law department for which the applicant has worked, or, in the absence of legal employment, a letter from the applicant's present or last employer. The reasons advanced for this suggested change are that the task of furnishing such affidavits and letters from third parties is burdensome for applicants and that the character affidavits are not of much value since they follow a standard format and are invariably worded favorably to the applicant in view of the fact that they are given to the applicant by the affiants for transmission to the Character Committee. (*The Record*, *op. cit.*, pp. 36-7).

We recognize that the character affidavits presently furnished by applicants are of limited value, especially because the applicant is free to select the persons who are to give the affidavits and the affidavits are turned over to the applicant for delivery to the Character Committee. We nevertheless recommend that the requirement for such affidavits be retained, except that, to lessen the burden on the applicant, we would reduce the number of required affidavits from three to two, one of which is preferably to be from a member of the Bar.

In our view, the requirement for character affidavits serves the purpose, at the very least, of showing that there are reputable people willing to vouch in writing for the applicant's good character, and that is particularly important where the affiants are persons known to the Character Committee. The requirement for such affidavits further serves the purpose of impressing on the applicant that the admission process is not a perfunctory matter, and that, in accordance with generally prevailing requirements for the furnishing of references as proof of one's good character, the applicant is merely being required to submit verification of his references in the form of affidavits from them.

Further, the requirement for affidavits from legal employers and letters from non-legal employers serves the purpose of providing further data for aid in making the character determination. It may be noted that in complying with this requirement, the applicant is not free to select his own affiant, as he is with respect to general character affidavits, and the affidavits or letters from employers thus have an added element of reliability in that regard.

D. Proposal for Advance Ruling Procedure

The Bar Association Report proposes the adoption of an advance ruling procedure whereby any prospective applicant for admission to law school or the Bar could obtain "a binding determination that, on a given set of facts, he satisfied the character requirements for admission to the Bar". Under the proposed procedure, the applicant would submit "a written statement of the assumed facts and make available any related records", and a written decision would be rendered by the Character Committee, subject to approval by the Appellate Division, on the basis of such written statement and related records, without any hearing. Any decision in favor of the applicant would thereafter have binding force unless the written statement of facts submitted by the applicant were found to be inaccurate in any material respects. (*The Record*, *op. cit.*, pp. 45-6).

There appear to be cogent reasons in favor of adopting a form of advance ruling procedure in certain cases in order to resolve the feelings of uncertainty that a prospective applicant for admission to the Bar may have by reason of particular past conduct. However, in our opinion, it would not be feasible for a Character Committee to make a binding determination with respect to an individual's general character and fitness years prior to his actual application for admission to practice, as suggested by the Bar Association Report, since any such initial determination would necessarily be subject to reconsideration at the later date in order to take account of the applicant's behavior and activities during the interim period.

In our opinion, the only feasible provision for an advance ruling procedure would be one limited to determining whether a particular incident in the applicant's past would operate to disqualify him, on character grounds, from being admitted to the Bar. We would recommend that such a procedure be made available only with respect to three types of such incidents; namely, where the applicant has previously been (a) convicted of a felony or misdemeanor, or (b) suspended, removed or dismissed from public office or employment, or (c) dishonorably discharged from the armed forces of the United States.

We would further limit the availability of such a procedure to a prospective applicant for admission to the New York Bar who is either a matriculated student in an approved law school or has applied for admission to such a law school. The application for the advance ruling would be addressed to the Appellate Division of the department in which the applicant resides or is employed full-time, or if the applicant does not reside and is not employed full-time in this state, to the Appellate Division of the Third Department, and would be filed with the clerk or other person in charge of the office of the Character Committee or Committees for that department.

The applicant would be required to submit a detailed statement of the pertinent facts together with a completed questionnaire on a form furnished by the Character Committee and affidavits of good moral character from two reputable persons who have known the applicant for at least one year. In addition, if the applicant had not yet entered law school, he would be required to submit a letter from the admitting authority at an approved law school stating that such law school had decided, on the basis of its own investigation, to admit the applicant notwithstanding the particular incident in his past with respect to which he was seeking an advance ruling.

The Character Committee would process and investigate the application in accordance with its usual procedures, including a personal interview of the applicant by one or more members of the Committee, and the Committee's recommendation would then be presented to the Appellate Division, which would either grant a ruling in favor of, or against the applicant, or would refuse to make any ruling. Any ruling made by the Appellate Division in favor of the applicant would thereafter have binding force throughout the state. In the event that the Appellate Division should rule against the applicant or should refuse to make a ruling, its determination would be without prejudice to the applicant's right to apply for a favorable ruling with respect to his character and fitness after passing the bar examination.

E. Proposal to Initiate the Character Investigation Process Immediately after the Applicant has Taken the Bar Examination

The Bar Association Report proposes that the character investigation process should be initiated immediately after the applicant has taken the bar examination, so that the great majority of the applicants who pass the bar examination and are approved as to character may be admitted, without further delay, as soon as the bar examination results are announced. (*The Record, op. cit.*, pp. 44-5). However, we cannot approve that proposal in view of the substantial percentage of applicants who fail the bar examination. By requiring the processing and investigation of the applications of all applicants months prior to the issuance of the bar examination results, including the applications of those who ultimately fail the examination, the proposal would entail a great deal of wasted time and effort on the part of the Character Committees.

We are, however, in favor of expediting the process by enabling the applicants to secure the necessary forms of questionnaire and other papers immediately after they have taken the bar examination, so that they may proceed with the completion of such forms and the securing of the necessary affidavits and other required documentary proof during the period preceding the announcement of the bar examination results. The applicant, nevertheless, would not be permitted to submit his completed questionnaire or other papers until after he was notified that he had passed the examination and had been certified to apply for admission. In addition, his papers would have to be accurate and complete as of a date not earlier than 45 days prior to their submission to the Committee.

F. Proposal to Make Publicly Available Regulations, Decisions and Statistics Relating to the Character Investigation Process

The Bar Association Report proposes that there should be greater public availability of written regulations governing character investigations, written decisions rendered by the Character Committees or the courts, and annual statistics reflecting the number of applications processed, deferred, rejected and accepted. (*The Record, op. cit.*, pp. 46-7). However, we find no need or warrant for this proposal. The applicable rules and regulations are presently available to the public in published form, and, in our opinion, no purpose is to be served by publishing statistics or decisions of the Character Committees.

The Character Committees do not make it a practice to render any written decisions when they recommend the admission of a particular candidate. A written decision is rendered by a Character Committee only when the recommendation is that the candidate be denied admission, and in such a case the ultimate decision is made by the Appellate Division and that decision becomes a matter of public record. There would be no point in publishing decisions of the Character Committees, since such decisions have no value as precedents. Moreover, the decisions are expressly made confidential by statute (Judiciary Law, §90, subd. 10). The only decisions which would have any value as precedents are those of the Appellate Divisions and the Court of Appeals, and such decisions are presently being published.

G. Proposal for Formulation of Standards for Determining Character and Fitness

The Bar Association Report suggests the need for "written guidelines or standards defining the circumstances when applicants may be denied admission to the Bar" and proposes that a statewide committee be formed to prepare such guidelines or standards. However, the Report makes no attempt

itself to propose any definite guidelines or standards, and, instead, suggests that no applicant should be permanently denied admission, no matter what the circumstances, and that there should at most be only a deferral of admission for a period of time, and then only in certain specified cases; namely, where the applicant (a) has previously engaged in certain types of criminal conduct, (b) suffers from mental or emotional instability, (c) has persistently failed to pay public fines or penalties, (d) has made material misrepresentations in the application or (e) has been disbarred in another state. (*The Record, op. cit.*, pp. 37-42).

We do not agree with these proposals. First, there is no need for the appointment of any new statewide committee to concern itself with the standards for determining character and fitness. The existing Committee to Regularize is fully equipped to undertake whatever is appropriate in that regard.

Further, we question whether it is feasible to make a precise delineation of the various factors which are to be considered in determining whether an applicant has the requisite character and fitness. The concept of good moral character is, by its very nature, one that does not lend itself to exact definition and, as Justice Frankfurter has noted, "has shadowy rather than precise bounds". See *Schware v. Board of Bar Examiners, supra*, 353 U.S. at 249 (concurring opinion). Justice Frankfurter has further observed that the application of that concept "involves an exercise of delicate judgment on the part of those who reach a conclusion, having heard and seen the applicant for admission, * * * which * * * expresses 'an intuition of experience which outruns analysis and sums up many unnamed and tangled impressions; impressions which may lie beneath consciousness without losing their worth.' " See *Schware v. Board of Bar Examiners, supra*, 353 U.S. at 248.

As a matter of fact, the validity of New York's generally worded standard of character and fitness has been upheld by the United States Supreme Court as against a challenge that it was unconstitutionally vague. *Law Students Research Council, Inc. v. Wadmond*, 401 U.S. 154, 159. It may be further noted that the list of disqualifying circumstances which, under the Bar Association's proposal, would be the only grounds that could be considered by the Character Committee (*The Record, op. cit.*, pp. 39-42), does not include activities of a fraudulent or otherwise wrongful nature which do not constitute criminal conduct but which may well have a material bearing on character and fitness.

H. Proposal to Adopt Uniform Procedural Rules and to Fix Time Limits for the Making of Character Determinations

The Bar Association Report notes that there are presently no published rules of a uniform nature in the four departments describing the procedures of the Character Committees. (The Record, *op. cit.*, p. 24). We agree that it would be of value to adopt uniform rules, to the extent possible, to regulate the procedures to be followed by the Character Committees, and we are studying the feasibility of formulating a set of uniform rules for that purpose which will make due allowance for variances in local conditions in the several departments. The results of that study will be included in a supplemental report to be submitted by our Committee at a later date. [2]

The Bar Association Report also notes that there are no specified time limits within which the character determination must be made, and it asserts that "some character committees seem to have adopted an informal procedure by which 'problem' cases are deferred indefinitely." (*The Record, op. cit.*, p. 47). We are not, however, aware of any inordinate delays in the processing of applications for admission at the present time, or of any abuse of the practice of deferring action on an application where warranted by the circumstances of the particular case. It is our understanding that the Character Committees are currently proceeding as expeditiously as possible and that the practice of deferral is followed in relatively few cases and only where called for by special circumstances. We are of the opinion that the Character Committees should continue to have the power to defer action on an application in an appropriate case. Indeed, the Bar Association Report itself recognizes that the practice of deferral may serve a salutary purpose in at least some cases. Thus, one of its proposals is that, as respects "most problem cases", there should be no flat rejection of any applicant, but, instead, a deferral of admission for a "probationary" period, followed by the applicant's admission "without further delay", on finding that his "conduct ... [was] satisfactory during this 'probationary' period". (*The Record, op. cit.*, p. 39).

I. Proposed Changes in Standard Form of Questionnaire, Instructions and Other Forms

As noted above, the Bar Association Report proposes that many of the items presently contained in the standard questionnaire form be deleted or modified. Only certain specified items — 1(a)-(c), 2(a)(c)(e), 15(a), 16(a)(b), 19(a)(b), 22(a), 27 — would be retained without change. (*The Record, op. cit.*, pp. 54-67). We have carefully reviewed the specific proposals and have concluded that some of the suggestions have merit and should be adopted in whole or in part, whereas others do not warrant any change. We have also made independent recommendations for changes in various items. Our views and recommendations with respect to the individual items are set forth in Appendix A, *infra*. The proposed revised questionnaire form embodying the revisions that we recommend is set forth in Appendix B, *infra*.

We also recommend certain changes in the instruction sheet issued to the applicants, as well as in the form of character affidavit. No change is proposed in the form of affidavit for use by an attorney-employer for whom the applicant has worked. However, we have prepared a form of affirmation which such an attorney-employer may use, at his option, in place of an affidavit. We have also prepared a form of authorization to be appended to the school certificate form and signed by the applicant, authorizing the law school or college or university to which the certificate is sent to provide the information requested therein. No change in the

[2] Subsequent to the issuance of this report, the Committee to Regularize formulated such a set of proposed uniform rules which are set forth in Appendix D, *infra*.

school certificate form is otherwise proposed. These revisions and forms are set forth in Appendix C, *infra*.

IV. Conclusion

Though, as noted, we disagree with many of the conclusions and proposals advanced in the Bar Association Report, we would like to express our appreciation to the authors of that Report for their comprehensive study of the procedures for determining character and fitness, which has led to our own intensive review of the subject and accompanying recommendations. We have found merit in a number of the Bar Association proposals, particularly with regard to various items of the standard questionnaire form, and we have incorporated the substance of those proposals in our recommendations, in whole or in part. Further, even in the areas in which we differ with the views expressed in the Report, the Bar Associations are to be commended for focusing attention on the difficult and complex issues involved.

Dated: June 12, 1979

Respectfully submitted,

COMMITTEE TO REGULARIZE
BAR ADMISSION PROCEDURES

Arthur Karger, *Chairman*
Justice Arthur Markewich
Justice James D. Hopkins
Justice Louis M. Greenblott
Justice G. Robert Witmer
Joseph W. Bellacosa
Joseph J. Lucchi
John J. O'Brien
Mary F. Zoller
Robert E. Keegan
Bartholomew M. Verdirame

Appendix A
Proposed Changes in Standard Questionnaire Form

As noted above, we have carefully reviewed the specific proposals advanced in the Bar Association Report for the deletion or modification of various of the items presently contained in the standard questionnaire form (*The Record*, *op. cit.*, pp. 54-67). In the discussion that follows, we have set forth our views and recommendations with respect to such proposals and have also included an explanation of recommendations which we have independently made for changes in various items.* We have omitted discussion of the items which the Bar Association Report suggests should be retained without change, since we likewise have found no basis for objection to those items.**

Q. 2(b)
[Proposed Q. 2(b)]

Though admission to the Bar cannot constitutionally be denied on the basis solely of the applicant's non-citizenship (*Matter of Griffiths*, 413 U.S. 717), it is nevertheless appropriate, as the Bar Association Report recognizes, to ascertain whether an applicant who is not a citizen of the United States by birth is in this country legally and is not in violation of Federal restrictions on his right to work here. For that purpose inquiry is made into such an applicant's immigration and naturalization status. The Bar Association Report agrees that inquiry into the immigration status of any alien applicant is relevant as a check on his compliance with applicable legal requirements, but contends that it is inappropriate to demand verification of an applicant's claim that he is a naturalized citizen. It is our view that both areas of inquiry are proper.

Q. 2(d)
[Proposed to be Deleted]

We agree that Q. 2(d), which requires the applicant to state the names and relationships of all persons with whom he is "presently living", should be deleted, as proposed by the Bar Association Report, as an unwarranted invasion of privacy. We are of the view that this question has no reasonable bearing on the character and fitness requisite to assume and discharge the responsibilities of an attorney.

Q. 2(e)
[Proposed Q. 3(b)]

We agree that the questionnaire should be revised, as suggested by the Bar Association Report, so as to provide for the situation where the applicant is not a resident of the state but is employed full-time therein, and we have recommended the addition of such provision in a proposed new Q. 3(b).

*In such discussion, each item is identified by its number in the present questionnaire, followed by its number in the proposed revised questionnaire (Appendix B, *infra*), except where it is to be deleted.

**Under our proposed revision (Appendix B, *infra*), many of the items to which the Bar Association Report does not object would be renumbered, though they would otherwise be continued without any substantial change. Q. 2(e) would be renumbered Q. 3(a); Q. 15(a) would be renumbered Q. 13(a); Q.'s 16(a) and (b) would be renumbered Q.'s 14(a) and (b); Q.'s 19(a) and (b) would be renumbered Q.'s 15(a) and (b); Q. 22(a) would be renumbered Q. 19(a); and Q. 27 would be renumbered Q. 23. No change would be made in the numbering of Q.'s 1(a)-(c) and 2(a) and (c).

Q.'s 3(a), (b)
[Proposed Q. 4]

We agree that, except for the single inquiry as to whether the applicant is married or single, there is no purpose to be served by the detailed inquiries in this question concerning the applicant's marriage, the name of his spouse, and whether he is living with or separated from his spouse. Any pertinent information that might be revealed by the answers to such detailed inquiries as to whether the applicant is in arrears with respect to support payments for a spouse or child, would be elicited by other questions in the questionnaire; namely, present Q. 22(b), proposed Q. 19(b).

Q. 4
[Proposed Q. 5]

The Bar Association Report proposes that present Q. 4, which seeks information with respect to the applicant's past residences, should be completely eliminated, and that it is sufficient for the applicant merely to set forth, as required by present Q. 2(a), the length of his actual residence in this state immediately preceding the submission of his application. However, we are of the opinion that information as to the applicant's past place or places of residence is of importance in an investigation of his character and fitness. Nevertheless, we recommend that the extent of the inquiry presently made in Q. 4 should be modified by deleting subdivisions (a) and (b) and by amending subdivision (c) (to be embodied in proposed Q. 5), so as to require information concerning the applicant's past place or places of residene only for the period since the candidate first entered college, and so as to exclude temporary college residences.

Q. 5
[Proposed to be Deleted]

We agree with the Bar Association Report that present Q. 5, which seeks information concerning all schools below college grade that the applicant attended, should be deleted as immaterial and unduly burdensome.

Q. 6
[Proposed Q. 5]

Present Q. 6 requires the applicant to list the colleges, universities and professional schools, other than law schools, which he attended, giving the month and year of the beginning and ending of attendance and each of the degrees received. The Bar Association Report objects only to the requirement that the exact months be specified, and that summer sessions be separately indicated, as unduly burdensome. We agree that the requirement for separate specification of periods of attendance at a summer session should be deleted. However, we do not believe that it is burdensome for the applicant to state the month and year of the beginning and ending of the period or periods of his attendance at the particular college or university.

Q. 7
[Proposed to be Deleted]

We are of the opinion that present Q. 7, which seeks information as to the date of filing of an applicant's Law Student's Qualifying Certificate, should be deleted as immaterial.

Q. 8
[Proposed Q. 7]

Present Q. 8 requires the applicant to set forth the same type of information with respect to his attendance at law school as he is required to furnish in answer to present Q. 6 concerning his attendance at a college or university. Our views and recommendations are the same, as regards this question, as they are with respect to present Q. 6.

Q. 9
[Proposed Q. 8(a)]

We do not find any merit in the objections advanced by the Bar Association Report to present Q. 9(a), which requires the applicant to state whether he has ever been denied admission to any school, college or law school "for cause which might reflect up . . . character". The objections that the question is vague and cannot be objectively answered are unfounded, since the applicant would only be required to answer the question on the basis of facts of which he had actual knowledge.

Q. 9(b)
[Proposed Q. 8(b)]

We agree with the Bar Association Report that present Q. 9(b), which inquires whether the applicant was ever disciplined by an educational institution, should be limited to situations in which the discipline was imposed "for conduct unrelated to . . . academic achievement." We are of the opinion, however, that, as so modified, the question should be retained in substantially its present form.

Q. 10
[Proposed Q. 9]

Contrary to the view advanced in the Bar Association Report, we are of the opinion that present Q. 10, which requires the applicant to give information concerning all past employment of a non-legal nature, should be retained, except that we would require such information only as respects employment subsequent to the applicant's attainment of the age of 18.

Q. 11
[Proposed Q. 10]

Present Q. 11 requires the applicant to submit certain information with respect to all law-related employment. The Bar Association Report objects only insofar as the applicant is required to furnish an affidavit from each employer. We

are of the opinion that the latter requirement should be modified to the extent of allowing the employer to submit an affirmation instead of an affidavit, but that the question should otherwise be retained in its present form.

Q. 12
[Propose Q. 12]

We are of the opinion, contrary to the view expressed in the Bar Association Report, that present Q. 12, which seeks information with respect to any occupation, business or profession in which the applicant may have been engaged either alone or with others, should be retained substantially in its present form as providing useful information bearing on the applicant's character and fitness.

Q.'s 13 and 14
[Proposed Q.11]

Present Q.'s 13 and 14 ask whether the applicant was ever discharged by any employer and whether the applicant "affirmatively represents", in connection with all his employments, that his "services were satisfactory" and that he was not discharged or requested to leave his position. We agree with the Bar Association Report that the inquiry should be limited to a reasonable time period and that the required representations that the applicant's "services were satisfactory" should be eliminated.

We accordingly recommend that the two questions be combined into a single question (proposed Q. 11) which would simply inquire whether the applicant had ever been discharged or requested to resign from or leave his position in connection with any employment that he had had since attaining the age of 18. The Bar Association Report acknowledges that such an inquiry is "reasonably likely to lead to relevant information for the character committees". Though the Bar Association Report would change the question so as to inquire only whether the applicant had been discharged "for misconduct", we believe that the inquiry should remain in general form, the applicant being required to include every discharge from employment within the specified period of time.

Q.'s 15(b) - (d)
[Proposed Q.'s 13(b) - (d)]

The Bar Association Report would completely eliminate present Q.'s 15 (b) - (d), which inquire whether the applicant has ever engaged in the "unauthorized practice of law". We do not agree with the position taken in the Bar Association Report that the subject of "unauthorized practice of law" is "too ambiguous an area for purposes of the questionnaire." We do, however, recommend that the inquiry presently made in Q. 15(c) as to whether the applicant had ever been employed by, or otherwise connected with, any firm whose conduct had been "called into question on the subject of unauthorized practice of law", should be limited to situations in which the applicant had knowledge thereof; and that the inquiry presently made in Q. 15(d) as to whether the applicant had ever tried any action or proceeding, argued any motion, drawn legal papers, or given legal advice, should be revised so as to exclude activities comprising part of a law school clinical program or otherwise permitted by law (see Judiciary Law, §§478, 484).

Q. 17
[Proposed to be Deleted]

We agree with the Bar Association Report that in view of the elimination of the mandatory draft, the inquiry made in present Q. 17, as to whether the applicant is registered for Selective Service, should be eliminated. It might, however, be appropriate to reinstate this question in the event that a mandatory draft is reinstituted.

Q. 18
[Proposed to be Deleted]

We agree with the Bar Association Report that present Q. 18, which asks whether the applicant was ever rejected for military service on physical, mental, moral or other grounds, should be eliminated.

Q. 20
[Proposed Q. 16]

We agree with the Bar Association Report that present Q. 20, which inquires into any "formal or informal" charges or complaints or court martial proceedings against the applicant while in military service, should be revised so as to exclude "informal" charges or complaints. We accordingly recommend the deletion of the phrase "formal or informal" from this question.

Q. 21
[Proposed Q.'s 17 and 18]

Present Q. 21 consists of six subdivisions which inquire:

(a) whether the applicant had ever testified or been called as a witness in any action, proceeding or investigation to which he was not a party;

(b) whether he had ever been "ticketed, summoned, arrested, indicted, convicted, or charged with the violation of any law, ordinance, traffic or parking regulation or the commission of any felony or misdemeanor or been requested to appear before any prosecuting or investigative agency";

(c) whether he had ever failed to answer any ticket, summons or other legal process on the return date;

(d) whether he had ever been adjudged an incompetent or had proceedings brought to have him adjudged an incompetent, or been committed to or been a patient in any institution for the care of persons suffering from mental or nervous disorders or drug addiction, drug abuse or alcoholism;

(e) whether he had ever been charged with fraud or any other act involving moral turpitude; and

(f) whether he had ever been a party to or otherwise involved in any action, proceeding or investigation, civil or criminal, not covered by the answers to the preceding subdivisions.

In the revisions which we recommend in the different subdivisions of this question, we have taken account of various suggestions made in the Bar Association Report which we deem meritorious, though we have declined to follow other suggestions which we do not find persuasive. We have also recommended a number of other changes in the interests of greater simplicity and clarity.

We do not agree with the Bar Association Report that the inquiry now made in subd. (a) as to whether the applicant had ever been called or testified as a witness is "overbroad and irrelevant". In our opinion, such an inquiry provides a potential source of relevant information for the Character Committees, and, indeed, we recommend expanding the question (in proposed Q. 18[a]) to include a refusal to testify or a grant of immunity.

We recommend that the provisions of present subd. (b) be separated from the other subdivisions of Q. 21 and embodied in a proposed Q. 17, and that they be materially shortened and simplified, so as to be limited to situations in which the applicant has been "arrested, taken into custody, charged with, indicted, convicted, tried for or pleaded guilty to, the commission of any felony or misdemeanor or the violation of any law or ordinance." The Bar Association Report acknowledges that a broad inquiry into prior arrests and other criminal proceedings is appropriate in view of "the obvious relevance of this inquiry to a lawyer's character and fitness." As suggested by that Report, we would eliminate any reference to such minor matters as traffic or parking violations, and we would require the applicant to make disclosure of such matters, in a separate subdivision (proposed Q. 18[b]), only where he has failed to answer any ticket or summons on the return date or has failed to pay traffic tickets.

We have further taken account of the objection raised in the Bar Association Report concerning the inquiry presently made in Q. 21(b) with reference to any past juvenile delinquency or youthful offender proceedings brought against the applicant. The objection is that any inquiry concerning such matters is in conflict with statutory provisions which declare that an adjudication as a juvenile delinquent or a youthful offender shall not be considered as a criminal conviction and shall not disqualify the person affected from "receiving any license granted by public authority" (Family Court Act, §§ 781-784; CPL 720.35). However, the courts have held that though the effect of those statutory provisions is to preclude any use of the adjudication itself for impeachment purposes at a trial, inquiry may nevertheless be made into the underlying illegal or immoral acts on which the adjudication was predicated. *People v. Vidal*, 26 N.Y.2d 249, 253-4; *People v. Cook*, 37 N.Y.2d 591, 595. We accordingly propose that the provisions of present Q. 21(b) relating to juvenile delinquency and youthful offender proceedings be revised (in proposed Q. 17) so as to make it clear that the inquiry is aimed only at eliciting the underlying facts relating to the applicant's adjudication as a juvenile delinquent or youthful offender, rather than the adjudication itself or any of the court proceedings leading up to the adjudication.

We propose to retain the requirement of present Q. 21(b) that any past conviction be disclosed by the applicant even though it may have been expunged from the records by an order of the court. The Bar Association Report cites the statutory provisions adopted in 1976 which declare, subject to certain specified exceptions, that any arrest or prosecution in a criminal action or proceeding which has terminated in favor of the person accused shall not operate as a disqualification of such person to engage in any lawful activity or profession, that such person shall not be required to divulge information pertaining to such arrest or prosecution, and that no inquiry shall be made with respect thereto (CPL 160.60; Exec. Law, §296[14]). One of the specified exceptions — set forth, however, only in one of those statutory provisions (CPL 160.60) — reads: "except where specifically required or permitted by statute or *upon specific authorization of a superior court*" (emphasis supplied). Pursuant to that exceptional provision, each of the several Appellate Divisions has adopted an order expressly authorizing the Character Committee or Committees within its Department to continue to inquire concerning all criminal actions or proceedings involving the applicant, including actions or proceedings which had terminated in the applicant's favor.

The Bar Association Report recognizes that there are cogent reasons in favor of permitting the Character Committees to make such inquiry. However, it suggests that instead of relying on general court orders, clarifying legislation should be sought to include express exceptions in the pertinent statutes for bar admission proceedings, especially in view of the fact that one of such statutes does not provide for any exception by court order (Exec. Law, §296[14]). We are of the opinion that the aforementioned Appellate Division orders provide the requisite "specific authorization of a superior court", as permitted by one of the statutes on the subject (CPL 160.60), to enable the Character Committees to continue to inquire concerning such arrests or prosecutions. The mere fact that the other statute on the subject (Exec. Law, §296[14]) does not expressly provide such an exception is, in our view, not a valid basis for objection, since both statutes were enacted at the same time and cover the same subject matter and should therefore be read together as if they were parts of the same statute. *City Bank Farmers Trust Co. v. Ardlea Corp.*, 267 N.Y. 224, 228; *Town of Islip v. Powell*, 78 Misc.2d 1007, 1012; cf. *Gaden v. Gaden*, 29 N.Y.2d 80, 86.

As regards incompetency or commitment proceedings dealt with in present Q. 21(d), we agree with the Bar Association Report that the inquiries relating to these matters should be limited to a specified period of time. We accordingly recommend that Q. 21(d) be amended so as to limit the inquiries contained therein to the period since the applicant attained the age of 18 (see proposed Q. 18[c]).

We do not find any merit in the objections raised in the Bar Association Report to the remaining subdivisions of Q. 21 (subd.'s [e] and [f]). We are of the opinion that the inquiries made in those subdivisions are reasonable and necessary to elicit relevant information for the Character Committees, and that the applicants should not have any difficulty in responding thereto.

Q. 22(b)
[Proposed Q. 19(b)]

We agree with the proposal of the Bar Association Report that present Q. 22(b) should be revised so as to make it clear that the applicant is being asked whether he is in default in the performance or discharge of any debt or obligation imposed upon him by a decree or order of any court or governmental agency (though we would also include the words "judgment" and "directive"), and that the inquiry does not embrace any amorphous duty or obligation imposed by a governmental agency that is not embodied in an order or directive.

Q. 22(c)
[Proposed Q. 19(c)]

The Bar Association Report recognizes that present Q. 22(c), which relates to the applicant's indebtedness, "is arguably relevant to his later ability to discharge fiduciary obligations as a practicing lawyer", and that some inquiry in this area should be retained. It suggests, however, that the inquiry should relate only to past due debts over a certain amount. The Bar Association Report recommends that the inquiry should be limited to debts exceeding $1,000 which are 90 days past due, and that debts owed to members of the applicant's immediate family should be excluded. We recommend that there be no exclusion of debts owed to family members, and that the inquiry should be limited to debts of $300 or more which are 60 days past due.

Q.'s 23(a) and (b)
[Proposed Q.'s 20(a)-(c)]

We do not agree with the proposal of the Bar Association Report that the inquiry presently made in Q.'s 23(a) and (b) into the matter of prior applications made by the applicant for any licenses requiring "proof of good character" should be broadened so as to include all license applications without regard to whether proof of good character is required. We are of the opinion that the present limitation should be retained, since it would not be germane to inquire concerning a prior application for a license which did not involve "proof of good character". However, we do agree with the further proposal that there should be an additional inquiry as to whether any such license granted to the applicant was ever revoked (see proposed Q. 20[c]).

Q. 23(c)
[Proposed Q. 20(d)]

Present Q. 23(c) relates to the subject of prior bonded positions, and we agree with the Bar Association Report that the wording of that question should be revised so as to require an answer only in the event that any one had ever sought to recover on or cancel a fidelity bond on account of the applicant's conduct in connection with a bonded position held by him (see proposed Q. 20[d]).

Q.'s 24 and 25
[Proposed Q.'s 21 and 22]

Present Q. 24 asks whether the applicant has knowingly been a member of any organization or group advocating governmental overthrow (subd. [a]), and if so, whether he had "the specific intent to further the aims of such organization or group" (subd. [b]). Present Q. 25 inquires into the applicant's willingness to take the constitutional oath (subd. [a]) and his ability to do so in good faith (subd. [b]). Though recognizing that the constitutional validity of these inquiries was expressly upheld by the United States Supreme Court in *Law Students Research Council, Inc. v. Wadmond*, 401 U.S. 154, 163, 165, the Bar Association Report nevertheless urges that "as a matter of policy ... this type of investigation is no longer appropriate" and should be discontinued. We do not agree with this position, and we are of the opinion that the inquiries in question are germane in determining whether the applicant possesses the requisite character and fitness for admission to the Bar. It has thus been held that an applicant's deliberate advocacy of resort to force to overthrow our existing form of government was a factor disqualifying him from admission to the Bar, since it showed that he lacked the basic respect for, and attachment to, the rule of law which an attorney should have. *Matter of Cassidy*, 268 App. Div. 282 (2d Dept.), aff'd. 296 N.Y. 926.

However, we recommend that present Q. 24(b), which inquires into the matter of the applicant's "specific intent" to further the aims of the particular organization or group, adds little or nothing to present Q. 24(a) and should be deleted. Under our proposed revision, present Q. 24(a) would be renumbered Q. 21, and Q.'s 25(a) and (b) would be renumbered Q.'s 22(a) and (b); Q. 24(b) would be deleted.

Q. 26
[Proposed to be Deleted]

We agree with the Bar Association Report that present Q. 26, as to whether the applicant has been disciplined by any club, association, society or organization, is overbroad and of little or no value and should be deleted.

Q. 28
[Proposed Q. 24]

Present Q. 28 asks whether the applicant has read the Code of Professional Responsibility and whether he will conscientiously endeavor to conform his professional conduct to it. We do not agree with the position of the Bar Association Report that this inquiry serves no purpose and should be eliminated. In our opinion, the inquiry does serve a valuable purpose and should be retained (see proposed Q. 24).

Handwriting Samples

We do not agree with the proposal of the Bar Association Report that the requirement for a handwriting sample serves no purpose and should be eliminated. However, we recommend that the burden placed on the applicant be eased by requiring him to copy in his own handwriting only one short sentence concerning the continuing nature of the application, instead of the two paragraphs which he is now required to copy.

Appendix B

Questionnaire Form Embodying Recommended Revisions

Applicant's Office Telephone_____ ISSUED_____

Applicant's Home Telephone_____ SUBMITTED_____

Appellate Division, Supreme Court

_____Judicial Department

Committee on Character and Fitness

of

Applicants for Admission to the Bar

APPLICATION FOR ADMISSION TO THE BAR AND STATEMENT REQUIRED PURSUANT TO ARTICLE 94 OF THE CIVIL PRACTICE LAW AND RULES

DIRECTIONS

(Read all these directions carefully before attempting to answer any question.)

1. This is a statement made under oath. Applicant's failure fully and accurately to disclose any fact or information called for by any question may result in the denial of the application for admission, or if applicant shall have been admitted before the discovery thereof, in the revocation of his license to practice law.

2. Answers must be in BLACK INK, preferably in typewriting, but may be in applicant's handwriting or hand printing.

3. *Unless otherwise indicated, every question and every part of each question must be answered, even though the answer be negative.*

4. Where "Yes" or "No" suffices, employ that form in answer.

5. If the applicant cannot comply with any of the requirements, he must state in detail the efforts he has made to comply and why he cannot. Answers on information and belief will be accepted only in connection with matters which the applicant cannot be expected to remember because of extreme youth or other equally sufficient reason. All statements made on information and belief must be so designated in the *sworn statement, and the sources of information must be given.*

6. Should the space left for any answer be insufficient, the applicant shall complete his answer on a rider page, attached to page 9 hereof, specifying the number of the question to which it relates. More than one rider may occupy a rider page. Each rider page should be signed. Avoid riders whenever possible.

7. In stating addresses give street and number, if any, city, village, county and state or foreign country.

8. In giving a period which is continuing at the date of verification of this sworn statement, always give such period as continuing "to date."

TO THE APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, _____ JUDICIAL DEPARTMENT

The undersigned hereby applies for admission to practise as an attorney and counselor-at-law in all courts of the State of New York, and in support of such application submits the following sworn statement and the accompanying affidavits and other papers:

1. (a) State name in *full* _____
(First) (Middle) (Last)

(b) Have you ever used or been known by any other name? _____ If so, state in full each name (other than the name above given) which you have used or by which you have at any time been known, the period of, and the reasons for, the use of each such name. (If change of name was made by court order, submit a certified copy of order; if by marriage, so state.)

(c) Social Security Number _____

2. State the following:

(a) Age, date, and place of birth.

(b) Are you a citizen of the United States? If you are a naturalized or derivative citizen, give the date when and place where naturalization or right to derivative status was acquired, the number of certificate of naturalization, and when submitting papers, exhibit certificate of naturalization or equivalent from any governmental office. (Such certificate will be returned.) If you are not a citizen of the United States, what is your immigration status?

(c) Present residence (full mailing address).

3. State:

(a) Length of actual residence in the State of New York, if any, immediately preceding the submission of this application.

(b) Length of full time employment in the State of New York, if any, immediately preceding the submission of this application.

4. State whether married or single

5. List below, every permanent and temporary residence you have ever had including the present, in the United States or elsewhere, since first entering college or its equivalent with exact address of each, and the month and year of the beginning and ending of each such residence. (Exclude college residences and military addresses, unless off base.)

Permanent Residences

(List same chronologically beginning with the earliest date. *Temporary residences*, which are residences *away from home* for educational, business or other special purposes, are to be listed on next page. *Do not interrupt the continuity of the periods of permanent residence by subtracting periods of temporary residence.*)

Period (Give month and year of beginning and ending.)	Street and Number	City or village, town and county	State or Country

Temporary Residences

(These include only residences away from home for educational, business or other special purposes except summer vacations. Do not interrupt continuity of periods of permanent residence, to be given above, by subtracting periods of temporary residence.)

Period (Give month and year of beginning and ending.)	Street and Number	City or village, town and county	State or Country

6. List **colleges, universities and professional schools** (other than law schools) attended, **giving month and year** of the beginning and ending of attendance at each, and degrees received. If you did not receive a degree, state the reason.

Name	City or Town	State or Country	Degree	Month and Year of Beginning and Ending of Period or Periods of Attendance.

7. List law schools attended, giving month and year of the beginning and ending of attendance at each, and degrees received. If you did not receive a degree, state the reason.

Name	City or Town	State or Country	Degree	Month and Year of Beginning and Ending of Period or Periods of Attendance

8. (a) Have you ever been denied admission to any school, college, law school, or other similar institution for stated cause which might reflect upon your character?

(b) Have you ever been placed on probation, dropped, suspended, expelled or otherwise been subjected to discipline by any institution of learning above elementary school level for conduct unrelated to your academic achievement, or have you ever been requested or advised by any law school for any reason to discontinue your studies therein?

If your answer is "Yes" to either (a) or (b), give the name of any such institution and state the circumstances and date of each such occurrence.

9. Are you now or have you ever been employed in a business, profession or occupation other than law? If so, enumerate all such employments in chronological order since attaining the age of 18. Include employments by members of family or other relatives and employments with or without monetary compensation.

Month and Year of Beginning and Ending of Period of Employment	Name of Employer (Individual, partnership or corporation. Do not give name of an agent of employer.)	Address of Employer (Give street, number, city or town and state or country.)	Nature of Employer's Business	Position or Positions held by Applicant	Reason for Termination

10. Are you *now* or have you ever been employed in or associated with any law office, law department or legal institution? If so, enumerate all such employments and associations in chronological order. Include employments by members of family or other relatives and employments with or without monetary compensation. Submit affidavit or affirmation from each employer containing nature of employment period of service, whether or not satisfactory and reason for termination.

Month and Year of Beginning and Ending of Period of Employment	Name of Employer (Individual, partnership or corporation. Do not give name of an agent of employer.)	Address of Employer (Give street, number, city or town and state or country.)	Nature of Employer's Business	Position or Positions held by Applicant	Reason for Termination

11. In connection with any employment which you have had since attaining the age of 18, have you ever been discharged or requested to resign from or leave your position?

If your answer is "Yes," give the name of each such employer and state the date and circumstances as to each such incident.

12. Are you now, or have you ever been engaged on your own account or with others in any occupation, business, or profession?.....

If so, give in detail the nature and location thereof and the **month and year** of the beginning and ending of your engagement in or connection therewith. If any such business was carried on by you in partnership with others, give the names and addresses of all partners and the nature of the business. If the business was carried on by a corporation in which you held any office state its name, address, nature of the business and your connection with it.

List any action now pending against such firm or corporation and any judgment entered against it during the period of your association with it.

13. (a) Have you ever applied for admission to the Bar of the State of New York in this or any other Department (see CPLR 9405)?.....

(b) Have you ever engaged in or has your conduct ever been called into question with reference to the unauthorized practice of law? .....

(c) Have you ever been employed by or otherwise connected with any person, firm, or corporation who or which to your knowledge engaged in conduct that was called into question on the subject of unauthorized practice of law while you were so employed or connected?.....

(d) Except for activities comprising part of a law school clinical program or otherwise permitted by law (see Judiciary Law §§ 478, 484) have you ever tried any action or proceeding, argued any motion, drawn legal papers, other than under the supervision of an attorney, given legal advice or held yourself out as an attorney or counselor-at-law in this State?.....

If your answer is "Yes" as to any part of this question, state the matter fully.

14. (a) Have you ever applied to take or taken the bar examination in any country, state or jurisdiction other than the State of New York? .....

(b) Have you ever applied for admission to practice as an attorney or counselor in any country, state or jurisdiction other than the State of New York?_____

If your answer to (a) or (b) is "Yes," state specifically the disposition made of the application or the result of the bar examination. If admitted, state (a) the name and address of each court by which admitted, the date of such admission, the periods of practice and all the office addresses where you have practiced, with the names and addresses of partners, if any, and (b) whether you have ever been reprimanded, disciplined, suspended, or disbarred as an attorney or counselor-at-law, or whether any charges or complaints have even been preferred against you, and if so, the nature of the charges and their disposition.

(Applicants admitted in other jurisdictions must submit a certificate of admission and good standing at the Bar of each court to which separately admitted and a letter from each Grievance Committee, or body entertaining complaints against lawyers, certifying as to whether charges have been filed with such Committee or body against the applicant, and, if so, the substance of charges and the disposition thereof.)

15. (a) Have you at any time or in any manner, served in any of the armed forces of the United States, including reserves? If the answer is "Yes," state (1) when, where, and which service; (2) period and nature of service rendered; (3) if discharged give date and nature of discharge and submit photocopy of each release or discharge certificate.

(b) Have you served in the armed forces (reserves or otherwise) of any country other than the United States of America? If the answer is "Yes", give name of country, inclusive dates of service, and reason for separation from service. (Submit photocopy of each release and discharge).

16. As a member of any armed forces have you been the subject of any charge, or have any proceedings been instituted against you, or have you been a defendant in any court martial proceeding? If answer is "Yes," state the facts.

17. State the underlying facts of any matter in which you have ever been arrested, taken into custody, charged with, indicted, convicted, tried for, or pleaded guilty to, the commission of any felony or misdemeanor or the violation of any law or ordinance, except traffic or parking violations, or been the subject of any juvenile delinquency or youthful offender proceeding.

Although a conviction may have been expunged from the records by an order of the court, it nevertheless should be disclosed in the answer to this question. You may submit a copy of any certificate of relief from disabilities or certificate of good conduct that may have been granted to you in connection with a conviction.

18. State whether you have

(a) ever testified, refused to testify, or been granted immunity, as a witness in any action or proceeding, or before any prosecuting or investigative agency in any matter

(b) ever failed to answer any ticket, summons or other legal process served upon you at any time If so, was any warrant, subpoena or further process issued against you as a result of your failure to respond to such legal process?
State the number of unpaid traffic tickets, if any, in your name or attributable to a motor vehicle registered in your name, and the respective fines due thereon

(c) since attaining the age of 18, been adjudged an incompetent, or had proceedings brought to have you adjudged an incompetent, or been committed to or been a patient in any institution for the care of persons suffering from mental or nervous disorders or drug addiction, drug abuse or alcoholism

(d) ever been charged with fraudulent conduct or any other act involving moral turpitude

(e) ever been a party to or otherwise involved in any civil or criminal action, proceeding or investigation not covered by answers to the foregoing subdivisions of this question

If your answer is "Yes" to any subdivision of this question, indicate the subdivision and state the facts as fully as possible, giving in each instance the name and locality of the court or agency, the approximate date of the action or proceeding and the judgment or other disposition.

19. (a) Are there any unsatisfied judgments against you? If so, list the same giving name and address of judgment creditor and the court by which judgment was rendered, together with the date and amount thereof and the nature of the claim on which it was based.

(b) Are you in default in the performance or discharge of any duty or obligation imposed upon you by a judgment, decree, order or directive of any court or governmental agency? If so, state the facts

(c) Are you indebted to anyone? If so, list each debt due over 60 days amounting to $300 or more, stating the name and address of the creditor and the amount, due date, nature and status of each such debt.

20. (a) Have you ever applied for a license the procurement of which required proof of good character? _____ If granted, state, as to each such license, the approximate date it was granted and the name of the authority granting it.

(b) If your application for such a license was not granted, state the facts.

(c) If any such license was revoked, state the facts.

(d) Has anyone ever sought to recover on or cancel a fidelity bond on account of your conduct in connection with a bonded position held by you? _____ If so, specify the nature of your position, the dates during which you were bonded, and the underlying circumstances.

21. Have you ever organized or helped to organize or become a member of any organization or group of persons which, during the period of your membership or association, you knew was advocating or teaching that the government of the United States or any state or any political subdivision thereof should be overthrown or overturned by force, violence or any unlawful means? _____ If your answer is in the affirmative, state the facts below.

22. (a) Is there any reason why you cannot take and subscribe to an oath or affirmation that you will support the constitutions of the United States and of the State of New York? _____ If there is, please explain.

(b) Can you conscientiously, and do you, affirm that you are without any mental reservation, loyal to and ready to support the Constitution of the United States? _____

23. If admitted to the Bar do you intend to practice law in New York? _____ If you do not intend to practice law in New York state why.

24. (a) Have you read the Code of Professional Responsibility adopted by the American and New York State Bar Associations? _____

(b) Will you conscientiously endeavor to conform your professional conduct to it? _____

(THE FOLLOWING PARAGRAPH IS TO BE COPIED BY THE APPLICANT IN HIS USUAL HANDWRITING IN THE SPACE PROVIDED BEFORE THE SIGNATURE OF THE APPLICANT.)

Since this is a continuing application, I will submit such additional affidavits, papers or information as may be requested or as may be necessitated by any change in my situation up to the date of my appearance before the Appellate Division to be sworn in as an attorney and counselor at law.

COPY FOREGOING PARAGRAPH HERE

Signature of applicant _____
(Must conform to name on letter of notification from State Board of Law Examiners)

STATE OF _____ }
} ss.:
COUNTY OF _____ }

I, _____, being duly sworn, say: I have read the foregoing questions and have fully, truthfully and accurately answered the same. The foregoing answers are true of my own knowledge, except if stated to be made upon information and belief, and as to such answers, I believe them to be true.

Signature of applicant _____
(Sign as above)

Subscribed and sworn to before me this day of , 19

_____
Notary Public

Appendix C

Instruction Sheet, Affidavit
and Affirmation Forms, School
Certificate Authorization and
Other Standard Forms Embodying
Recommended Revisions

STATE OF NEW YORK
APPELLATE DIVISIONS OF THE SUPREME COURT
COMMITTEES ON CHARACTER AND FITNESS

INSTRUCTIONS TO APPLICANTS FOR ADMISSION TO THE BAR

GENERAL INSTRUCTIONS

(Applicable in All Judicial Departments)

Strict compliance with these instructions is required. Incomplete, defective or carelessly prepared papers will occasion delay and may result in the rejection of the application.

All papers required by these instructions must be accurate and complete as of a date not earlier than 45 days prior to their submission.

Any false statement contained in the applicant's papers, or any failure to disclose any material fact, may result in the denial of the application for admission; or if the applicant shall have been admitted before the discovery thereof, in the revocation of his license to practice law.

Applicants should read carefully section 90 of the Judiciary Law, Article 94 of the Civil Practice Law and Rules, and the Rules of the Court of Appeals regarding the admission of attorneys and counselors-at-law.

1. OFFICIAL FORMS—Applicants will be furnished the following standard forms: Questionnaire, Affidavits of Character, Affidavits of Legal Employment, and College, Graduate, and Law School Certificates.

2. QUESTIONNAIRE—Every applicant must file a verified questionnaire, preferably typewritten, and must answer all questions fully, truthfully and accurately. If the space provided be insufficient for a complete answer, the answer may be given on a rider which should be signed by the applicant, specifying by its number the question to which it relates. Avoid use of riders, if possible.

3. AFFIDAVITS OF CHARACTER—Every applicant must furnish affidavits of good moral character from two reputable persons residing in the State of New York in the same city or county in which the applicant resides or has resided for a substantial period following his 18th birthday, one of whom preferably should be an attorney in good standing in this State; or, if the applicant has resided for a substantial period preceding the date of application, and following his 18th birthday, outside the State of New York, the required affidavits may be furnished by persons residing in the community in which the applicant has so resided.

Do not submit affidavits of character from (a) other applicants, (b) persons related to the applicant, (c) members of the faculty or administrative staff of any law school which the applicant has attended, or (d) persons associated with the applicant's present employer.

4. LEGAL EMPLOYMENT—An employer's affidavit or affirmation is required concerning every employment of a legal nature in a law office or legal department of a corporation or other business, or of a legal aid or public office.

5. BUSINESS EMPLOYMENT—If the applicant has not had any substantial legal employment (No. 4, above) a letter addressed to the appropriate Committee on Character and Fitness should be submitted on the letterhead of the applicant's present employer, or if the applicant is not presently employed, from his last employer, giving (a) the nature of the services rendered by the applicant, (b) the period of employment, (c) the reason for leaving and (d) estimate of the applicant's character.

6. COLLEGE, GRADUATE, AND LAW SCHOOL CERTIFICATES—A certificate must be submitted from each college, graduate, and law school attended by the applicant. Each of the forms provided for that purpose contains an authorization to be signed by the applicant, who shall then send one of such forms to each such institution together with a stamped envelope addressed to the appropriate filing office (indicated below) of the Appellate Division to which the applicant has been certified by the State Board of Law Examiners.

7. LETTER OF NOTIFICATION FROM STATE BOARD OF LAW EXAMINERS—Every applicant must file with his application the letter from the State Board of Law Examiners notifying him that he has passed the bar examination.

8.MATTERS REQUIRING SPECIAL PROOF:

A. *Military Record*—Submit copies of each release and discharge from military service, if any.

B. *Change of Name*—If by court order, submit certified copy of order. Otherwise, submit copy of birth certificate and affidavits by parents and applicant stating the period of use of each name and that all names used are of the same person as applicant. If by marriage, so state in questionnaire.

C. *Naturalization; Immigration*—Applicant must exhibit, at the time of submitting his application papers, all naturalization papers, if any, under which citizenship is claimed, or if he is not a citizen, all papers relating to his immigration status.

D. *Prior Admission in Other Jurisdictions*—Submit certificates of good standing from each court, Federal or State, to which separately admitted, and a letter from each grievance committee, or other body entertaining complaints against lawyers, certifying as to whether any charges have been filed with such committee or body against the applicant, and, if so, setting forth the substance of the charges and the disposition thereof. Certificates should be dated not more than 60 days prior to submission.

E. *Divorce, Separation or Annulment*—Submit a certified copy of any judgment or decree of divorce, separation or annulment, or any order of any court having jurisdiction of domestic relations, directed against the applicant.

F. *Partnerships, Associations, etc., in Business or Profession*—If the applicant is or has been engaged in any business or profession with others in partnership, under a corporate organization or otherwise, a letter should be submitted from at least one of the applicant's associates covering the items listed under Business Employment above (No. 5).

9. APPLICATION PAPERS—*Only fully completed applications will be accepted for filing.* Applications should be arranged in the following order:

a. Letter of State Board of Law Examiners.
b. Questionnaire verified by applicant.
c. Two affidavits of character.
d. Affidavits or affirmations of legal employment.
e. Copy of each release and discharge from military service, if any.
f. Any other papers applicant is required or desires to submit.

10. FILING OFFICES—*Applications should be filed with, and all inquiries concerning admission procedures directed to, the appropriate filing office (indicated below) of the Appellate Division to which the applicant has been certified by the State Board of Law Examiners.*

11. *Inability to comply* with any of the foregoing requirements for admission must be set forth in an affidavit of the applicant indicating any omission and stating fully the efforts made by the applicant to fulfill the requirements.

Filing Offices

First Judicial Department: Secretary, Committee on Character and Fitness, Appellate Division, First Department, 41 Madison Avenue, Room 207-A, New York, New York 10010.

Second Judicial Department: Secretary, Committees on Character and Fitness, Appellate Division, Second Department, 185 Montague Street, Brooklyn, New York 11201.

Third Judicial Department: Clerk, Appellate Division, Third Department, Justice Building, Albany, New York 12223.

Fourth Judicial Department: Clerk, Appellate Division, Fourth Department, 501 Hall of Justice, Rochester, New York 14614.

MANNER OF SUBMISSION

All papers must be submitted to the appropriate filing office of the Appellate Division, noted above, personally or by mail.

NOTE: 1. Self-address the white envelope enclosed and submit with your papers.

2. The applicant should submit with his other papers a summary statement on the form provided for that purpose, typewritten in duplicate.

NEW YORK SUPREME COURT, APPELLATE DIVISION,
_____ DEPARTMENT

IN THE MATTER OF THE APPLICATION

of

.....*

for Admission as an Attorney and Counselor-at-Law

Affidavit of Good Moral Character

STATE OF .....
COUNTY OF ..... } ss.:

..... being duly sworn, states:

1. Residence of affiant:

2. Nature of affiant's business (if a practicing attorney, give year and place of admission):

3. Name of firm and business address of affiant:

4. Length and nature of affiant's acquaintance with applicant, including a statement of applicants's residence(s) during the period of affiant's acquaintanceship:

5. Affiant's opinion as to applicant's moral character and fitness to practice law:

(OVER)

* Give name of applicant as it appears in the letter of notification from the State Board of Law Examiners.

6. Facts upon which affiant's knowledge or opinion as to applicant's moral character is based:

7. State any information or facts which would be helpful to the committee on character and fitness in determining applicant's character and fitness:

8. Do you recommend applicant for admission to the bar?

.....

(Signature)

Sworn to before me this

day of 19

.....

Notary Public

(DO NOT FORGET TO HAVE AFFIDAVIT NOTARIZED)

Form EA

NEW YORK SUPREME COURT, APPELLATE DIVISION,
_____ DEPARTMENT

IN THE MATTER OF THE APPLICATION

of

(Insert name of applicant)

for Admission to Practise as an Attorney and Counselor-at-law

Form for Affidavit of Employment by an Attorney, Law Firm or Law Department

PLEASE NOTE

The answers to all questions are to be written, preferably in typewriting, by or under the direction of the affiant, so that the substance and language shall be supplied by affiant and not by applicant or any other person.

STATE OF) ss.:
COUNTY OF)

_____, the affiant, being duly sworn, deposes
(Name of affiant)

and says that the answers to the following questions have been written by or under the direction of affiant, and that both questions and answers have been carefully read by affiant and that the several answers are true to affiant's own knowledge, except those stated to have been made on information and belief, or which express the opinion of the affiant, and as to those answers, affiant believes them to be true:

1. Home and office addresses of affiant? (Give full mailing addresses)

2. Are you, and were you during the entire period of the employment hereinafter mentioned, a practising attorney of the Supreme Court of the State of New York, giving department and approximate date of admission?

3. Has the applicant been at any time employed in your law office or under your supervision in any law office or in the law department of a corporation? If so, give the following facts:

   (a) Name and address of employer (individual, firm or corporation).

   (b) If applicant was not in your individual employ, state your position with employer during the employment.
   (For example, member of employing firm, head of law department of a corporation, managing attorney, or other position.)

(c) Period, or each period, of employment, giving month and year of beginning and ending of each period, or if employment still continues, state that it continues to date.

(d) Each position held by applicant and nature of his duties.

(e) Nature and frequency of your personal contacts with applicant during the employment.

(f) Whether or not you had personal supervision of his work, or any part thereof, during entire employment or any part thereof.

If you did not have personal supervision, give name and position of each person having supervision.

(g) State whether or not applicant's duties were satisfactorily performed.
If not, state in what respects such performance was defective.

4. If the employment has been terminated, state how and why, and in case of two or more separate periods of employment give such information as to each period.

5. State any other facts within your knowledge, or of which you have information, which in your opinion have any bearing on the applicant's moral character or fitness to practise law, or which would be helpful to the Committee in determining the applicant's character and fitness.

Sworn to before me this

day of 19 } (Affiant to sign here)

(Insert date)

.....
(Attesting officer to sign here)

.....
(Official designation)

NEW YORK SUPREME COURT, APPELLATE DIVISION,
_____ DEPARTMENT

IN THE MATTER OF THE APPLICATION

of

.....
(Insert name of applicant)

for Admission to Practise as an Attorney and Counselor-at-Law

Form for Affirmation of Employment by an Attorney, Law Firm or Law Department

PLEASE NOTE

The answers to all questions are to be written, preferably in typewriting, by or under the direction of the affiant, so that the substance and language shall be supplied by affiant and not by applicant or any other person.

..... the affirmant, an attorney duly admitted to practice in the State of New York, hereby affirms under the penalties of perjury that the answers to the following questions have been written by or under the direction of affirmant, and that both questions and answers have been carefully read by affirmant and that the several answers are true of affirmant's own knowledge, except those stated to have been made on information and belief, or which express the opinion of the affirmant, and as to those answers, affirmant believes them to be true:
(Name of affirmant)

1. Home and office addresses of affirmant? (Give full mailing addresses)

2. **Are** you, and **were** you during the entire period of the employment hereinafter mentioned, a **practising** attorney of the Supreme Court of the State of New York, giving **department** and **approximate date** of admission?

3. Has the applicant been at any time employed in your law office or under your supervision in any law office or in the law department of a corporation? If so, give the following facts:

   (a) Name and address of employer (individual, firm or corporation).

   (b) If applicant was not in your individual employ, state your position with employer during the employment. (For example, member of employing firm, head of law department of a corporation, managing attorney, or other position.)

(c) Period, or each period, of employment, giving month and year of beginning and ending of each period, or if employment still continues, state that it continues to date.

(d) Each position held by applicant and nature of his duties.

(e) Nature and frequency of your personal contacts with applicant during the employment.

(f) Whether of not you had personal supervision of his work, or any part thereof, during the entire employment or any part thereof.

If you did not have personal supervision, give name and position of each person having supervision.

(g) State whether or not applicant's duties were satisfactorily performed.
If not, state in what respects such performance was defective.

4. If the employment has been terminated, state how and why, and in case of two or more separate periods of employment give such information as to each period.

5. State any other facts within your knowledge, or of which you have information, which in your opinion have any bearing on the applicant's moral character or fitness to practise law, or which would be helpful to the Committee in determining the applicant's character and fitness.

Subscribed and affirmed this

(Insert date)

day of 19

.....
(Affirmant to sign here)

APPLICANT: Print name below adding any other name used during attendance.

_____
Name

APPELLATE DIVISION, SUPREME COURT
_____ JUDICIAL DEPARTMENT

COMMITTEE ON CHARACTER AND FITNESS

CERTIFICATE OF COLLEGE, GRADUATE, OR LAW SCHOOL

To be mailed by school or college directly to: Committee on Character and Fitness,
41 MADISON AVENUE, NEW YORK, N.Y. 10010, Room 207-A

Name of applicant

Address of applicant on entrance, and all subsequent changes

Was name changed on record? If so, to what name?

Name and address of school or college, graduate, or law school ISSUING this certificate:

Attendance dates, specifying summer attendance separately. (Law schools are requested to give exact dates for each scholastic year and summer session.)

Birth date given at entry

Date of graduation

Degree conferred, if any

If no degree was conferred, or if applicant did not graduate, give reason

Conduct—whether anything discreditable from viewpoint of character.

Was applicant charged with any misconduct, or disciplined, suspended, or dropped, for any reason? If so, state facts

Is there any other information in the personnel or other records of the school regarding the applicant's activities or bearing upon his character not otherwise set forth in this certificate?

Did applicant file a questionnaire or written application containing data about himself? If so, a copy thereof is requested. (This question applies only to law schools.)

Date _____ 19 (Official Signature) _____

(Title) _____

Official Seal
of Institution

CERTIFICATE OF COLLEGE, GRADUATE, OR LAW SCHOOL

(The following is to be appended at the top of the school certificate form.)

APPLICANT: I, _____ (indicate any other name used during
(print name)
attendance) hereby authorize the institution and persons issuing this certificate to release to the Committee on Character and Fitness, Appellate Division, Supreme Court, _____ Department, all information, files or records requested by that Committee in connection with the processing of my application for admission to the Bar of the State of New York.

Dated _____, 19

_____
(Signature of Applicant)